



Federal Grants Procurement Manual

10/16/2025

310 East Market Street, University Hall, Tiffin, Ohio 44883

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I. INTRODUCTION

Heidelberg University intends to use this Procurement Manual to support the administration of its federal grants. This Procurement Manual establishes policies and procedures for procurement of goods and services for federal awards. Heidelberg University designates this Procurement Manual as the prime resource for Grants Specialists in the administration and management of the procurement process for their respective grant programs. This Procurement Manual lists and explains relevant federal laws and policies regarding procurement for federal grant administration and contains sample forms most commonly used throughout the procurement lifecycle. While this Procurement Manual is a primary resource, it is not intended to replace or supersede any federal guidance on grant administration or replace the procurement standards contained in 2 CFR Part 200, aka the Uniform Guidance, federal agency regulations, individual award terms, and conditions or other applicable laws regarding grant administration.

The Procurement Manual organizes the information in the following manner:

- ✓ Section II: Background about the procurement function
- ✓ Section III: A glossary of terms related to procurement for federal grants
- ✓ Section IV: Rules concerning federal grant procurement
- ✓ Section V: Information on managing procurements through the lifecycle of the federal award

Additionally, in Section VI, the Appendices include examples of a variety of relevant forms and other sample documents commonly used for managing procurement for federal grants.

▪ EFFECTIVE DATE

Heidelberg University will implement the procurement standards in 2 CFR Part 200 for fiscal years beginning on July 1, 2025 which is on or after December 26, 2017, as required.

Before that date, we chose to use the previous procurement standards contained in Heidelberg University Policies Handbook for All University Employees for our Heidelberg University before adopting the procurement standards in the Uniform Guidance.

▪ REMINDER TO EMPLOYEES

Employees must follow our documented procurement procedures that conform to applicable Federal, state, local, and tribal law and the procurement standards in the Uniform Guidance when making purchases with federal funds.

Failure to follow our policies regarding federal requirements can result in a wide range of sanctions for Heidelberg University, including disallowed costs, denied reimbursement requests, debarment of our Heidelberg University from all federal funding, including federal student aid, and, in some circumstances, criminal charges could result. Therefore, it is critically important to

our organization that the procurement policies are followed carefully. Violation of this policy may result in disciplinary action, including termination of employment.

II. ABOUT THE PROCUREMENT OFFICE

A. BUSINESS OFFICE

■ DESCRIPTION OF PROCUREMENT OFFICE

Heidelberg University does not have a separate Procurement Office; rather it operates its procurement through the Business Office. The Business Manager directs this office. The Controller, who reviews all purchase orders for allocation to individual grants, oversees the Business Manager. The VP of Finance & Administration/CFO oversees the Controller. The President oversees the VP of Finance and Administration/CFO. All individual staff purchasing items must work through their individual chain of command, which is then ultimately overseen by these four key leaders in approving procurements.

B. RESPONSIBILITIES

■ OUR RESPONSIBILITIES

Responsibilities: As a federal grant recipient, the Business Office is the responsible authority for administering the procurement function and the settlement of all contractual and administrative issues related to procurements for the purchase of goods and services in support of federal grants and other awarding instruments. These responsibilities include source evaluation, types of contracts, disputes, claims, and other contractual matters.

Federal grant project directors will complete necessary forms and send them to the Business Office under the direction of the Business Manager for payment. The Controller will oversee the tracking of federal grant expenses towards grants. The president of the university oversees all purchases made by the university. Smaller purchases can be made by the project directors, with oversight by the Business Manager and the Controller. Larger purchases would need to include approval by the CFO. The President, Strategic Leadership Team, and/or Board of Trustees must also approve capital work.

C. KEY CONTACTS

■ KEY CONTACTS

Title	Phone
President	419.448.2202
VP of Finance and Administration/CFO	419.448.2517
Business Manager	419.448.2183
Executive Assistant to President, Provost, & Board	419.448.2202
Controller	419.448.2227
FOR NAMES AND EMAILS, PLEASE CONSULT THE ONLINE HEIDELBERG DIRECTORY	

III. GLOSSARY OF TERMS

Term	Definition
Administrative Requirements	Administrative requirements mean matters common to grants in general, such as financial management, types, and frequency of reports, procurement and property management, and retention of records.
Award (also known as a Federal Award)	Award means financial assistance that provides support to accomplish a public purpose. Awards include grants and other agreements in the form of money or property instead of money by the Federal Government to an eligible recipient. The term does not include technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and contracts which are required to be entered into and administered under procurement laws and regulations.
Budget Period	Budget Period means the time interval from the start date of a funded portion of an award to the end date of that funded portion, during which recipients and subrecipients are authorized to incur financial obligations of the funds awarded, including any funds carried forward or other revisions pursuant to § 200.308.

Term	Definition
CFR	CFR means the Code of Federal Regulations where federal regulations are cataloged.
Claim	Claim means, depending on the context, either: a written demand or assertion by one of the parties to a federal award seeking as a matter of right, such as the payment of money, the adjustment or interpretation of the terms and conditions of the Federal award, other relief arising under or relating to a Federal award, or a request for payment not in dispute when submitted.
Closeout	Closeout means the process by which the federal agency or pass-through entity determines that all applicable administrative actions and all required work of the federal award have been completed and takes actions as described in § 200.344. Closeout includes many actions, including final reporting for the award, disposition of property, and record retention requirements.
Contract	Contract means, for the purpose of federal financial assistance, a legal instrument by which a recipient or subrecipient conducts procurement transactions under a federal award. For additional information on subrecipient and contractor determinations, see § 200.331. See also the definition of subaward.
Contractor	Contractor means an entity that received a procurement contract as defined in the Uniform Guidance.
Debarment	Debarment means a punitive action taken by a federal agency against an award recipient or contractor. The debarment prohibits participation in procurement contracts and non-procurement transactions such as grants and cooperative agreements.
Disallowed Costs	Disallowed costs mean charges to a federal award that the federal agency or pass-through entity determines to be unallowable in accordance with applicable federal statutes, regulations, the provisions of this part, or the terms and conditions of the federal award.

Term	Definition
Drawdown	Drawdown means the action of requesting and receiving grant funds to cover obligated expenditures under the grant.
Excluded Parties	Excluded parties mean persons or parties who are excluded or disqualified from covered transactions such as federal awards or contracts supported by a federal award.
Expenditures	Expenditures means charges made by a recipient or, subrecipient to a project or program for which a Federal award is received. The charges may be reported on a cash or accrual basis as long as the methodology is disclosed and consistently applied. For reports prepared on a cash basis, expenditures are the sum of: Cash disbursements for direct charges for property and services, the amount of indirect expense charged, the value of third-party in-kind contributions applied; and the amount of cash advance payments and payments made to subrecipients. For reports prepared on an accrual basis, expenditures are the sum of: Cash disbursements for direct charges for property and services, the amount of indirect expense incurred, the value of third-party in-kind contributions applied, and the net increase or decrease in the amounts owed by the recipient or subrecipient for goods and other property received, services performed by employees, contractors, subrecipients, and other payees, and programs for which no current services or performance are required, such as annuities, insurance claims, or other benefit payments.
Grant	Grant means an award of financial assistance where the principal purpose is to carry out a public purpose authorized by a law of the United States and not to procure property or services for the federal awarding agency or pass-through entity's direct benefit or use.
Grant Life Cycle	Grant life cycle means the entire process of grant administration: applying for a grant, receiving a grant, managing a grant, and closing out a grant.

Term	Definition
Improper Payment	Improper payment means a payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. The term improper payment includes: any payment to an ineligible recipient; any payment for an ineligible good or service; any duplicate payment; any payment for a good or service not received, except for those payments where authorized by law; any payment that is not authorized by law; and any payment that does not account for credit for applicable discounts. See OMB Circular A-123 Appendix C, Requirements for Payment Integrity Improvement for additional definitions and guidance on the requirements for payment integrity.
Internal Controls	Internal controls for recipients and subrecipients mean processes designed and implemented by recipients and subrecipients to provide reasonable assurance regarding the achievement of objectives in the following categories: Effectiveness and efficiency of operations, reliability of reporting for internal and external use; and compliance with applicable laws and regulations.
Micro-purchase	Micro-purchase means an individual procurement transaction for supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchases comprise a subset of a recipient's or subrecipient's small purchases using informal procurement methods as set forth in § 200.320. Generally, except as provided in § 200.320, the micro-purchase threshold for procurement activities administered under Federal awards is not to exceed the amount set by the FAR at 48 CFR part 2, subpart 2.1, unless a higher threshold is requested by the recipient or subrecipient and approved by the cognizant agency for indirect costs. Heidelberg University's micro-purchase threshold is \$10,000.
Non-Federal Entity	Non-federal entity means a state, local government, Indian Tribe, Institution of Higher Education (IHE), or nonprofit organization that carries out a federal award as a recipient or subrecipient.

Term	Definition
Obligations	Obligations, now called financial obligations, means orders placed for property and services, contracts and subawards made, and similar transactions that require payment by a recipient or subrecipient under a federal award that will result in expenditures by a recipient or subrecipient under a federal award.
Pass-through Entity	Pass-through entity (PTE) means a recipient or subrecipient that provides a subaward to a subrecipient (including lower tier subrecipients) to carry out part of a federal program.
Period of Performance	Period of performance means the time interval between the start and end date of a federal award, which may include one or more budget periods. Identification of the period of performance in the federal award consistent with § 200.211(b)(5) does not commit the federal agency to fund the award beyond the currently approved budget period.
Programmatic Requirements	Programmatic requirements mean matters relevant on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.

Term	Definition
Questioned Cost	Questioned cost means an amount, expended or received from a federal award, that in the auditor's judgment is noncompliant or suspected noncompliant with federal statutes, regulations, or the terms and conditions of the federal award, or at the time of the audit, lacked adequate documentation to support compliance, or appeared unreasonable and did not reflect the actions a prudent person would take in the circumstances. The questioned cost amount is calculated as if the portion of a transaction that lacked adequate documentation were confirmed noncompliant. There is no questioned cost solely because of deficiencies in internal control, or noncompliance with the reporting type of compliance requirement (described in the compliance supplement) if this noncompliance does not affect the amount expended or received from the federal award. Questioned costs are not improper payments until reviewed and confirmed to be improper payments as defined in OMB Circular A-123 Appendix C.
Recipient	Recipient means an entity that receives a federal award directly from a federal agency to carry out an activity under a federal program. The term recipient does not include subrecipients or individuals that are participants or beneficiaries of the award.
RFP	RFP means a request for proposal from a contractor.
Selected Items of Cost	Selected items of cost mean an itemized list over of allowable costs contained 2 CFR Part 200 Subsections §200.420-200.476.

Term	Definition
Simplified Acquisition Threshold	Simplified acquisition threshold means the dollar amount below which a recipient or subrecipient may purchase property or services using small purchase methods (see § 200.320). Recipients and subrecipients adopt small purchase procedures to expedite the purchase of items at or below the simplified acquisition threshold. The simplified acquisition threshold set in the FAR at 48 CFR part 2, subpart 2.1 is used in this part as the simplified acquisition threshold for secondary procurement activities administered under federal awards. The recipient or subrecipient is responsible for determining an appropriate simplified acquisition threshold, which is less than or equal to the dollar value established in the FAR, based on internal controls, an evaluation of risk, and its documented procurement procedures. Recipients and subrecipients should also determine if local government purchasing laws apply. This threshold must never exceed the dollar value established in the FAR.
Subaward	Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to contribute to the goals and objectives of the project by carrying out part of a federal award received by the pass-through entity. It does not include payments to a contractor, beneficiary, or participant. A subaward may be provided through any form of legal agreement consistent with criteria in with § 200.331, including an agreement the pass-through entity considers a contract.
Subrecipient	Subrecipients means an entity that receives a subaward from a pass-through entity to carry out part of a federal award. The term subrecipient does not include a beneficiary or participant. A subrecipient may also be a recipient of other federal awards directly from a federal agency.

Term	Definition
Suspension	Suspension means: (1) Temporary withdrawal of the authority to obligate grant funds pending corrective action by the recipient or subrecipient or a decision to terminate the grant (2) An action was taken by a suspending official in accordance with agency regulations implementing E.O. 12549 to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue. (3) An action by a federal awarding agency that temporarily withdraws federal sponsorship under an award, pending corrective action by the recipient, or pending a decision to terminate the award by the federal awarding agency.
Uniform Guidance	Uniform Guidance means the set of federal regulations contained in 2 CFR Part 200, also known as the “Super Circular.”
Unliquidated Obligations	Unliquidated obligations, now known as unliquidated financial obligations, means financial obligations incurred by the recipient or subrecipient but not paid (liquidated) for financial reports prepared on a cash basis. For reports prepared on an accrual basis, these are financial obligations incurred by the recipient or subrecipient but for which expenditures have not been recorded.
Unobligated Balance	Unobligated balance means the amount of funds under a federal award that the recipient or subrecipient has not obligated. The amount is computed by subtracting the cumulative amount of the recipient's or subrecipient's unliquidated financial obligations and expenditures under the federal award from the cumulative amount of funds the federal agency or pass-through entity authorized the recipient or subrecipient to obligate.

IV. FEDERAL GRANT PROCUREMENT RULES

The federal government provides rules for how all grantees must spend, track, and report on federal funds. These rules are located in 2 CFR Chapter I, Part 200, titled the Uniform

Administrative Requirements, Cost Principles, and Audit Requirements for federal Awards, also known as the “Uniform Guidance.” For procurement, all non-federal entities must follow 2 CFR Part 200 Subsections §200.318 General procurement standards through §200.327 Contract provisions.

In this Procurement Manual, the set of federal rules particularly relevant to procurement are divided into four major categories:

- General procurement standards
- Procurements by States and Indian Tribes
- Standards of Conduct
- Other rules

A. GENERAL PROCUREMENT STANDARDS

The general procurement standards for grant management can be found in 2 CFR Part 200, Subpart D Subsection §200.318, accessible online at <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200#subpart-D>

The general procurement standards cover a variety of topics, including:

Oversight Responsibilities:	Our organization is required to maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
Use of Good Judgement:	Our organization is required to use good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of procurements.

B. PROCUREMENTS BY STATES AND INDIAN TRIBES

Standards for Procurements by States and Indian Tribes are found in 2 CFR Part 200, Subpart D Subsection §200.317, accessible online at <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.317>

States and Indian Tribes must follow the same policies and procedures for procuring goods and services, whether the procurements are for a federal award or for non-federal purposes.

If such policies and procedures do not exist, States and Indian Tribes must follow the procurement standards in §§ 200.318 through 200.327.

In addition, the State or Indian Tribe must also comply with:

- § 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms
- §200.322 Procurement of recovered materials
- § 200.323 Contract cost and price.
- §200.327 Contract provisions.

All other non-federal entities, including subrecipients of a state, will follow §200.318 General procurement standards through 200.327 Contract provisions.

C. STANDARDS OF CONDUCT

The general procurement standards for grant management in 2 CFR Part 200, Subpart D Subsection §200.318 require written Standards of Conduct for non-federal entities to avoid conflicts of interest related to their federal awards and, at a minimum, govern the performance of its employees engaged in the selection, award, and administration of contracts supported by federal awards.

We take ethical behavior seriously at Heidelberg University as failure to follow our policies regarding federal requirements can result in a wide range of sanctions for the organization, including disallowed costs, denied reimbursement requests, debarment of our organization from all federal funding, including federal student aid and, in some circumstances, criminal charges could result.

[If your Standards of Conduct Policy is covered elsewhere, such as the Employee Handbook, reference that Policy rather than creating a new policy as long as it meets the minimum requirements in Subsection §200.318.]

Heidelberg University's *Employee Policies Handbook* (June 2024)(page 7), specifically states the following:

"CODE OF ETHICS

Expectation of Ethical and Professional Behavior"

(continued on next page)

“Institutions of higher education such as Heidelberg University are entrusted by society with great resources and commensurately great responsibilities for creation, dissemination and preservation of knowledge. Heidelberg University employees play a key role in assuring that high standards of ethical practices attend to the custody and use of these resources. The personal and professional conduct of Heidelberg employees reflects on the institution and the higher education enterprise at large. To guide University employees in setting and practicing high standards of ethical conduct, Heidelberg has developed the following code of ethics. Heidelberg embraces the values expressed in this code and advocates their observance by its employees.

Heidelberg employees’ conduct should be characterized by integrity and dignity and each employee should expect and encourage such conduct by others. Heidelberg employees are expected to:

- Accord respect to self and others
- Preserve honesty in actions and utterances
- Give fair and just treatment to all
- Accept intellectual and moral responsibility
- Aspire to achieve quality
- Refuse conflict or the appearance of conflict between personal and institutional interests
- Engender forthright expression of one’s own views and tolerance for the views of others

Heidelberg employees should act competently and should strive to advance competence both in self and in others. Heidelberg employees should understand and support the institution’s objectives and policies, should be capable of interpreting them within and beyond the institution, and should contribute constructively to their ongoing evaluation and reformulation.

Heidelberg employees should communicate to colleagues the content of this code of ethics and should strive to ensure that the standards of professional conduct contained herein are met.

In the discharge of duties in accordance with this code of ethics, Heidelberg employees enjoy the following rights:

- The right to work in a professional and supportive environment
- The right to have a clear written statement of the conditions of employment, procedures for professional review and a job description outlining duties and responsibilities
- Within the scope of each individual’s authority and policy, the right to exercise judgment and perform duties without disruption or harassment
- Freedom of conscience and the right to refuse to engage in actions that violate the ethical principles contained in this code or provisions of law.

Core Values and Personal Attributes of a Heidelberg Employee

- Core values – models leadership values of integrity, honesty, humility, transparency, respectfulness, diversity, caring, commitment, and accountability in all work.
- Intellectual dynamism – demonstrates mental sharpness, capability and agility.
- Self-knowledge – gains insight from successes and mistakes.
- Personal learning – seeks feedback and counsel to improve managerial behavior.
- Peer relationships – encourages collaboration and cooperation across the organization.
- Teamwork – performs most effectively as a hard-working member of a team.
- Constituency focus – completes work to meet constituencies’ expectations and requirements.
- Community focus – brings a spirit of enthusiasm and energy to the campus and town.”

D. OTHER RULES

Other rules governing grant administration are found in various sections of the Code of Federal Regulations.

▪ COST PRINCIPLES

Cost principles govern how **Heidelberg University** can spend federal grant funding. Federal cost principles can be found in 2 CFR Part 200 Subpart E, accessible online at <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200#subpart-E>

These laws discuss allowable costs, direct and indirect costs, reasonable costs, and unallowable costs associated with grant administration. The cost principles reference specific items, such as compensation for personal services, equipment, or advertising, in the Selected Items of Cost in Subsections §200.420-200.476.

All procurement actions for contracts supported by federal awards must also follow the cost principles and be:

- Necessary and reasonable for the performance of the federal award.
- Conform to any limitations or exclusions outlined in the cost principles or the terms and conditions of the federal award.
- Adequately documented.

▪ DEBARMENT AND SUSPENSION

2 CFR 180, *OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)*, governs debarment and suspension. Debarment and suspension can occur if federal grantees use federal funds wastefully or fraudulently. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities. See more on 2 CFR Part 180 at <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-I/part-180?toc=1>

▪ CONTRACT PROVISIONS

Heidelberg University contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

For an in-depth discussion of these contract provisions, reference 2 CFR Part 200 Appendix II, accessible online at <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200#Appendix-II-to-Part-200>

Other federal agencies may also have requirements for contract provisions contained in the terms and conditions of the federal award.

[Specify who is responsible for reviewing the agency-specific terms and conditions and communicating the requirements to the procurement department.]

Either the President or the CFO, or an individual grant-specific project director appointed at the discretion of the President or the CFO, is responsible for reviewing the agency-specific terms and conditions and communicating the requirements to the procurement department or those implementing procurement for individual grants.

▪ **OTHER RULES**

In addition to the requirements in the Uniform Guidance, individual federal agencies also supply guidance for grant administration. Agency-specific rules are found under the federal agency's CFR title. For example, the administration of Head Start grants under the Department of Health and Human Services is found under 45 CFR Part 1301.

To find CFR titles for agency-specific grant administration rules, look for the grant administration manual or agency CFR title referenced in the award terms and conditions or search the CFR online at the US Government Printing Office (GPO) website at <https://www.govinfo.gov/app/collection/cfr/>. In the past, OMB provided a chart of individual federal agencies. This chart is currently included in Part 8 - **APPENDIX II FEDERAL AGENCY CODIFICATION OF GOVERNMENT-WIDE REQUIREMENTS AND GUIDANCE FOR GRANTS AND COOPERATIVE AGREEMENTS** in the annual Compliance Supplement for the Single Audit. The current year Compliance Supplement is available at <https://www.whitehouse.gov/omb/office-federal-financial-management/current-compliance-supplement/>. Prior year's Compliance Supplements are available at <https://www.whitehouse.gov/omb/office-federal-financial-management/past-compliance-supplement/>.

[Insert other rules specific to your Heidelberg University here below.]

Heidelberg University has multiple handbooks for general operating purposes including:

- *Heidelberg University Policies Handbook For All University Employees* (Approved February 2021, Revision History October 2018) This book was renamed "*Heidelberg University Employee Policies Handbook*" with revision approved by Board June 2024).
- *Heidelberg University Faculty Manual* (Board Approved June 2021)
- *Heidelberg University Benefits Handbook for All University Employees* (June 2024 Revision) (original approval February 2021)
- *Heidelberg University Hiring Toolkit* (2022)

V. PROCUREMENT LIFECYCLE

A. GETTING STARTED

▪ REQUESTING A PURCHASE

Consistent with organizational practice, staff may request the purchase of goods and services that require processing by the Procurement Office by creating a purchase requisition, receiving required approvals for the purchase, and then submitting the purchase requisition to the Procurement Department.

Purchase requisition forms must be used for all purchases over:

Purchase requisition forms, completed through Ellucian Banner software, must be used for all purchases over \$50.00. The Heidelberg specific requisition form is available at

Heidelberg University's specific purchase requisition form (done in Ellucian Banner) can be found by logging into Ellucian Banner/ OASIS, and hitting the "financial services tab", clicking "finance", and then clicking "requisition" to get to the electronic form, or it can be found in hard copy here at **Appendix A1**.

All expenses require approval by the employee's supervisor and the grant-specific Project Director before a purchase requisition is submitted. The threshold for making a purchase requisition is \$50 or more.

- General Staff, \$50
- Project Director, \$500
- Department Head, \$2,000
- A single Strategic Leadership Member, \$2,500
- Strategic Leadership Team (vote) approval is required on purchases of \$2,500 to \$10,000.
- President approval is needed for purchases over \$10,000, and President/Board of Trustees approval is needed for large purchases, including major capital improvements and new building construction.

Purchase requisition forms are always required regardless of the amount if:

The use of a contracted consultant and/or the requirement for a contract for goods/services, will require that the purchase be approved by either the President or the VP of Finance and Administration/ CFO.

A generic sample purchase requisition form is included in Appendix A. Heidelberg University's specific purchase requisition form (done in Ellucian Banner) can be found by logging into Ellucian Banner/ OASIS, and hitting the "financial services tab", clicking "finance", and then

clicking “requisition” to get to the electronic form, or it can be found in hard copy here at **Appendix A1**.

▪ **AUTHORIZING A PURCHASE**

Purchase requisitions should be reviewed for approval by a designated official before submittal to the Procurement Office to ensure the requisition is necessary for the project or program, reasonable given the circumstances in place at the time the decision is made and allowable to be paid for with federal funds and within the budget for the project or program.

We use the following signatory authorization matrix in Appendix B for approvals of Purchase Requisition Forms.

To prevent funds being spent on non-allowable items, staff must present expenses to Department Head, then to the Project Director, then to the Business Office, and then finally to Controller or CFO before funds can be taken from grant monies to pay for supplies, etc. Each level of approval has a different spending level authorization as mentioned above, with all expenses of \$2,500 or more needing Strategic Leadership Team approval.

Example: An employee requests a purchase, and the Employee Supervisor approves the purchase, and the Project Director for the specific grant approves as well. After it is approved, the requisition is submitted to the Business Office, which approves the requisition and earmarks the funding. At this time, a Purchase Order Number is assigned, and this number is sent to the employee making the purchase. The employee then is able to make the purchase and turn in the associated receipts to be processed by the Business Office for payment.

Heidelberg’s Expense Approval Form can be found electronically at this link:

<https://inside.heidelberg.edu/expense-approval>

Internal Controls

Internal Controls are strong with Heidelberg. Before funds can be charged to a grant, it must be requested by staff, approved by director, approved at business office, and then approved by controller before it can be charged to federal grant funds. Additionally, large expenses must be pushed through the Business Office using electronic requisition/expense/purchase order forms. It would be unlikely that all those people would not catch an error or fraudulent behaviors.

▪ **REVIEWING A PURCHASE**

Once an appropriate designated official approves the purchase requisition, the purchasing agent shall review the terms and conditions of the funding agreement to ensure that there are

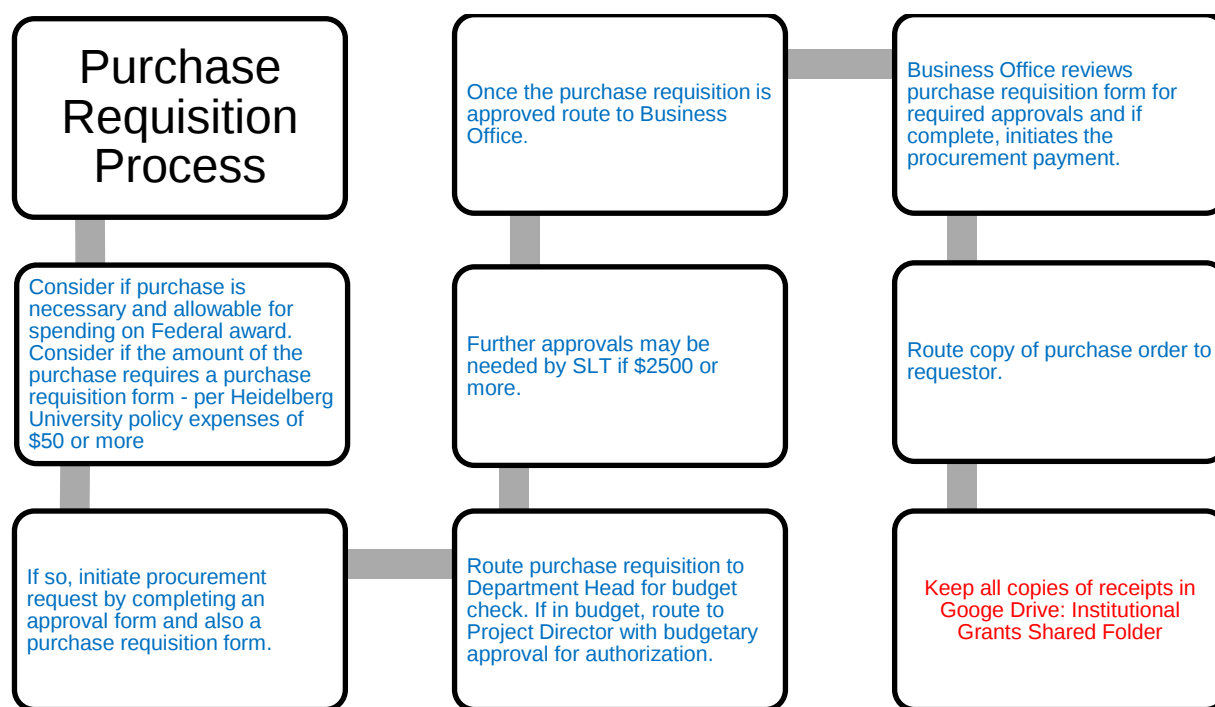
not additional procurement conditions related to that award that would affect the allowability of the procurement.

Next, the purchasing agent will review the scope of work to determine the proper classification of the procurement as a subaward or a contract consistent with § 200.331 Subrecipient and contractor determinations. A pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. (See Appendix I. Subawards must have prior approval of the funding agency and are not procurement transactions.)

Finally, the purchasing agent will determine the approximate price of the procurement, follow the appropriate purchase method, and choose an appropriate contract type for the procurement.

Purchases should not be split into multiple small purchases just to avoid the approval and documentation process.

[\[Enter Heidelberg University procurement requisition procedures here or edit the flow chart below.\]](#)



B. REQUIREMENTS FOR GRANTS

▪ ADEQUATE DOCUMENTATION

Heidelberg University shall maintain adequate documentation to demonstrate compliance with federal statutes, regulations, and the terms and conditions of the federal award. The records must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions. The documentation must be sufficient to trace the funds to a level of expenditure adequate to establish that such funds were used according to the federal statutes, regulations, and the terms and conditions of the federal award.

Examples of adequate documentation include records that show:

- How the funds were spent
- When the spending occurred
- Who made the purchase
- Who authorized the spending
- When the authorization took place

The Procurement Office must also maintain records sufficient to detail the history of the procurement. These records will include, but are not necessarily limited to the following:

- The rationale for the method of procurement
- Selection of contract type
- Contractor selection or rejection
- The basis for the contract price.

The amount of documentation required is influenced by the procurement method. For example, micro-purchases would have less documentation than a competitive procurement.

▪ AVOID UNNECESSARY PURCHASES

Heidelberg University must avoid the acquisition of unnecessary or duplicative items.

▪ CONTRACTOR EVALUATION

Heidelberg University must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, a record of past performance, and financial and technical resources. See also §200.214 Suspension and debarment.

▪ ECONOMICAL PURCHASES

Heidelberg University shall consider consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus

purchase alternatives and any other appropriate analysis to determine the most economical approach.

- **EXCESS AND SURPLUS PROPERTY**

Heidelberg University encourages the use of federal excess and surplus property instead of purchasing new equipment and property whenever such use is feasible and reduces project costs.

- **PROCUREMENT OF RECOVERED MATERIALS**

[If applicable]

A recipient or subrecipient that is a State agency or an agency of a political subdivision of a State **and its contractors** must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962. The requirements of Section 6002 include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Heidelberg University should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products. See Executive Order 14057, section 101, Policy.

- **SHARED SERVICES**

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the federal government, **Heidelberg University** encourages entering into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

- **VALUE ENGINEERING**

Heidelberg University encourages the use of value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at an overall lower cost.

C. PROHIBITED PROCUREMENTS

▪ CONFLICT OF INTEREST

Organizations must avoid conflicts of interest in the procurement of goods and services supported by federal awards. Conflicts of interest are part of the Standards of Conduct required by 2 CFR Part 200, Subpart D Subsection §200.318. General procurement standards.

[Heidelberg University's Standards of Conduct below]

CONFLICT OF INTEREST

(excerpted from page 17, Heidelberg University's Employee Policy Handbook, June 2024)

"A conflict of interest exists when any individual covered by this policy, or the immediate family member of an individual covered by this policy, has a relationship or engages in an activity which impairs or adversely influences the covered individual's judgment with respect to promoting the best interest of the University, or which impairs or adversely influences the performance or satisfaction of an employee's duties for and responsibilities to the University.

Disclosure - In any case where a conflict of interest exists, or may exist, or the appearance of a conflict of interest may exist, **it shall be the duty of the employee to promptly disclose all pertinent details regarding the actual or potential conflict.**

Persons who perceive the existence of an actual or potential conflict of interest shall not endeavor to resolve the conflict or determine that the external benefits will not adversely affect the University, but shall make a full disclosure of the facts, circumstances, relationships and transaction(s) as follows:

1. Vice Presidents shall report to the President.

2. All employees shall report to their immediate supervisors, who shall keep the appropriate Vice Presidents of the University currently informed.

3. Reports shall be made promptly and at the discretion of the person receiving the report, shall be made in writing and signed by the person making the disclosure.

Restraint on Participation - Persons covered by this policy are encouraged to avoid relationships and transactions that constitute an actual or potential conflict of interest. When such situations cannot be avoided, the person(s) shall disclose the conflict as required by this policy and, depending on the relevant circumstances, may be required to refrain from participating in consideration of the transaction affected by the conflict of interest. If a conflict waiver is indicated, it shall be in writing and signed by the President or Board making the determination and a copy of the Waiver shall be provided to the Chairman of the Board and the University Attorney."

What is a Conflict of Interest?

A conflict of interest includes when an employee, officer, agent, or board member, any member of their immediate family, their partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from an entity considered for a contract.

A conflict of interest arises when an employee, officer, agent, and board member of the recipient or subrecipient solicits or accepts gratuities, favors, or anything of monetary value from contractors.

When a real or apparent conflict of interest occurs, no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award.

Who is Covered?

These requirements govern the actions of all employees engaged in the selection, award, and administration of contracts supported by federal awards.

Prohibition on Soliciting or Accepting Items of Monetary Value

The officers, employees, and agents of the non-federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

Our Heidelberg University defines an *unsolicited* item of the nominal value of a gift to be an item of less than...

Heidelberg University has an *Employee Policies Handbook (June 2024 approved)*, that states on page 41, the following:

“GIFTS AND GRATUITIES

University employees must not accept tips or gratuities offered for services rendered in the course of normal employment. Gifts of any real monetary value, in excess of \$50, from individuals or organizations with whom the University does business are prohibited. If an employee does receive a gift with a value in excess of \$50, the employee must report the receipt of the gift to an immediate supervisor.”

We also define a non-substantial interest to be less than:

[Insert percentage of ownership and, if desired, whether the interest must be a publicly-traded stock. For example, 10% ownership of stock listed on the NYSE or NASDAQ.]

Real monetary value in excess of \$50 or more must be reported to immediate supervisor. See Employee Handbook page 41 quoted above. This includes all things of value including percent ownership in memberships, stocks, bonds, and other investments.

If the item of monetary value meets our definition of an *unsolicited* item of nominal value, of a gift or a non-substantial financial interest, we do not consider this a conflict of interest.

All real or apparent conflicts of interest must be disclosed to:

Heidelberg University has an Employee Policies Handbook, that states on page 41, the following

“Immediate supervisor of the employee must be notified if gifts of any kind exceed \$50.”

Disciplinary Action

It is critically important to a grant-funded organization that all employees follow the Standards of Conduct. Failure to comply with these standards can result in disciplinary action, including termination of employment.

Organizational Conflicts of Interest

Heidelberg University does NOT have a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe. Therefore, we must also be aware of and report organizational conflicts of interest because relationships with a parent company, affiliate, or subsidiary organization may make us unable or appear to be unable to be impartial in conducting a procurement action involving a related organization.

The non-federal entity must disclose in writing any conflict of interest to the federal awarding agency or pass-through entity in accordance with applicable federal awarding agency policy.

Heidelberg University – Potential Institutional Conflicts of Interest to Consider

Heidelberg University does not have a parent or subsidiary Heidelberg University that is not a state, local government, or Indian tribe.

Heidelberg University does have an affiliate group, entitled the “Berg Bravo.”

“Berg Bravo, Friends of Heidelberg Music and Theatre. Berg Bravo does not have its own tax number; it does operate under Heidelberg University’s tax number. Here is a weblink to more information about this group: alumni.heidelberg.edu/BergBravo”

Heidelberg University does have a business partnership arrangement, entitled **Heidelberg Licensing LLC**. This is a business partnership with Universitat Heidelberg (Address: AUGUSTINERGASSE 9, Heidelberg, Germany 69117). This LLC has its own tax id number, and lists “Trademark Licensing” as its business activity. The entire agreement is in place to allow naming rights in the United States, since this is a similar named organization in Germany.

▪ SUSPENSION AND DEBARMENT

To ensure federal funds do not flow to excluded parties, we must verify that the party with whom we intend to do business in a covered transaction is not excluded or disqualified from receiving federal funds. Common types of covered transactions include:

- All non-procurement contracts, such as subawards
- All procurement contracts requiring the consent of an official of a federal agency.
- Other procurement contracts for goods or services expected to equal or exceed \$25,000.
- A principal person in a covered transaction, such as a principal investigator or program director.

The method we use to verify the parties in the covered transaction are not excluded or disqualified from receiving federal funds is:

[Choose your process for checking for suspension and debarment.]

(a) **Checking SAM Exclusions (preferred method)**. This is preferred to be done by all Project Directors prior to allowing any expense to be considered for federal funding; or

(b) Collecting a certification from that person; or

(c) Adding a clause or condition to the covered transaction with that person

Names of debarred or suspended parties can be found by searching the System for Award Management (SAM) for exclusion records, active or excluded at <https://sam.gov/content/home> (Records that were contained in the Excluded Parties List System have been moved to SAM)

Adequate documentation of who was checked, when they were checked, and the results of the search must be maintained as well.

STEPS FOR PROJECT DIRECTORS TO CHECK FOR SUSPENSION AND DEBARRMENT:

*Log onto <https://sam.gov/content/home>

* Enter the name of the vendor/contractor in the search tab, and submit to get a response

* Take a screenshot of the SAM.gov results for the vendor or contractor name searched under the Excluded Parties List System and save it as a .PDF file to the Institutional Grants Google Shared Drive under the appropriate grant name.

*Note if the contractor/vendor is debarred or suspended, then they cannot receive federal funds.

*Note: If no information is shown under this search, then the vendor/contractor can be utilized with grant funding.

D. ALLOWABLE COSTS

▪ GENERAL CRITERIA

In addition to the procurement standards in the Uniform Guidance, procurement with federal funds must also be allowable for the federal award based on the cost principles and subsection §200.403 Factors affecting allowability of costs. Except where otherwise authorized by statute, costs must meet the following general criteria to be allowable under federal awards:

- (a) Be necessary and reasonable for the performance of the federal award and be allocable under these principles.
- (b) Conform to any limitations or exclusions outlined in these principles or the federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally financed and other activities of the non-federal entity.
- (d) Be accorded consistent treatment. A cost may not be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the federal award as an indirect cost.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally financed program in either the current or a prior period. See also § 200.306 Cost sharing or matching paragraph (b).
- (g) Be adequately documented. See also Subsection §200.300 Statutory and national policy requirements through § 200.309 Modifications to Period of Performance of this part.

To avoid subsequent disallowance or dispute based on unreasonableness or non-allocability, Heidelberg University may seek prior written approval of the cognizant agency for indirect costs or the federal awarding agency in advance of the incurrence of special or unusual costs.

▪ NECESSARY AND REASONABLE

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-federal entity is predominantly federally funded. In determining the reasonableness of a given cost, consideration must be given to:

- (a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of Heidelberg University or the proper and efficient performance of the federal award
- (b) The restraints or requirements imposed by such factors as sound business practices; arms-length bargaining; federal, state, and other laws and regulations; and terms and conditions of the federal award
- (c) Market prices for comparable goods or services for the geographic area
- (d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-federal entity, its employees, where applicable, its students or membership, the public at large, and the federal government
- (e) Whether the non-federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the federal award's cost

- **ALLOCABLE**

(a) A cost is allocable to a particular federal award or another cost objective if the goods or services involved are chargeable or assignable to that federal award or cost objective in accordance with relative benefits received. This standard is met if the cost:

- (1) Is incurred specifically for the federal award;
- (2) Benefits both the federal award and other work of the non-federal entity and can be distributed in proportions that may be approximated using reasonable methods; and
- (3) Is necessary to the overall operation of the non-federal entity and is assignable in part to the federal award in accordance with the principles in this subpart.

(b) All activities that benefit from the non-federal entity's indirect (F&A) cost, including unallowable activities and donated services by the non-federal entity or third parties, will receive an appropriate allocation of indirect costs.

(c) Any cost allocable to a particular federal award under the principles provided for in this part may not be charged to other federal awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations, or terms and conditions of the federal awards, or for other reasons. However, this prohibition would not preclude the non-federal entity from shifting costs that are allowable under two or more federal awards in accordance with existing federal statutes, regulations, or the terms and conditions of the federal awards.

(d) Direct cost allocation principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost should be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work

involved, then, notwithstanding paragraph (c) of this section, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a federal award, the costs are assignable to the federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required. See also §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.439 Equipment and other capital expenditures.

(e) If the contract is subject to CAS, costs must be allocated to the contract under the Cost Accounting Standards. To the extent that CAS is applicable, the allocation of costs in accordance with CAS takes precedence over the allocation provisions in this part.

- **NOT LIMITED BY COST PRINCIPLES**

The cost principles include a variety of costs, some of which are limited or unallowable to charge the federal award. For additional details, review 2 CFR Part 200 Sections 200.420 through 200.476, titled General Provisions for Selected Items of Cost. In addition, Section § 200.407 Prior written approval (prior approval) lists types of costs that may require the prior approval of the funding agency.

- **NET OF APPLICABLE CREDITS**

(a) Applicable credits refer to those receipts or reduction-of-expenditure-type transactions that offset or reduce expense items allocable to the federal award as direct or indirect (F&A) costs. Examples of such transactions are purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the non-federal entity relate to allowable costs, they must be credited to the federal award either as a cost reduction or cash refund, as appropriate.

(b) In some instances, the amounts received from the federal government to finance activities or service operations of the non-federal entity should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) should be recognized in determining the rates or amounts to be charged to the federal award. (See §§ 200.436 Depreciation and 200.468 Specialized service facilities for areas of potential application in the matter of federal financing of activities.)

E. PROCUREMENT METHODS

- **SUMMARY OF PROCUREMENT METHODS**

Heidelberg University must use one of the five methods for procurement of goods and services with federal funds.

[Note your policy can be more restrictive, but it can't be less restrictive than the Uniform Guidance procurement methods thresholds]

Heidelberg University must use documented procurement procedures that conform to applicable federal law and procurement standards covered in 2 CFR Part 200 Sections 200.317-200.327 and procedures that echo applicable state and local laws and regulations.

2 CFR Part 200 Section 200.320 specifies five methods of procurement to be followed, as illustrated in the table below:

Method	Aggregate Dollar Amt.	Notes 1:	Notes 2:
1. Micro-Purchase	Determined based on internal controls, an evaluation of risk, and documented procurement procedures, which may be lower than, but must not exceed, the micro-purchase threshold requirements in 200.320.	No quotations are required if the price is considered reasonable based on research, experience, purchase history, or other information and are adequately documented.	To the extent practicable, distribute equitably among qualified suppliers.
2. Small Purchase	Determined based on internal controls, an evaluation of risk, and documented procurement procedures, which may be lower than, but must not exceed, the simplified acquisition threshold established in the FAR. (Currently up to \$250,000)	Rate quotations from an adequate number of qualified sources.	No cost or price analysis is required.

3. Sealed Bid	Above the simplified acquisition threshold. (currently over \$250,000)	Primarily construction projects. Firm fixed price contract.	Price is a major factor. Formal process for bidding.
4. Competitive Proposals	Above the simplified acquisition threshold. (currently over \$250,000)	Fixed price or cost reimbursement	RFP with evaluation methods for an adequate number of qualified sources.
5. Sole Source	It can only be used if one or more of the circumstances in 200.320 (c) (1)-(5) apply	Noncompetitive procurement can only be used in specific circumstances	Examples: • Only available from a single source • Unique or public emergency

The five specified procurement methods must comply with the following:

- The organization's documented procurement procedures
- The necessity of the purchase
- Open competition to the extent required
- The Heidelberg University's conflict of interest policy
- Sufficient and proper documentation of the purchase

Here are more details on the five procurement methods.

▪ **MICRO-PURCHASE**

The micro-purchase method is an informal method for the acquisition of supplies or services when the aggregate dollar amount does not exceed the micro-purchase threshold as defined in 200.1, currently \$10,000, but with provisions for a higher threshold. To the extent practicable, the non-federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive price or rate quotations if the price is reasonable based on research, experience, purchase history, or other information documented accordingly.

Note: Recent Updates Provide a Framework for Higher Micro-Purchase Thresholds

The appropriate micro-purchase threshold should be based on internal controls, an evaluation of risk, and its documented procurement procedures.

The micro-purchase threshold must be authorized or not prohibited under state, local, or tribal laws or regulations.

A micro-purchase threshold higher than the federal threshold established in the Federal Acquisition Regulations (FAR) may be established if the conditions listed in §200.320 (a) (1) (iv) are met.

Up to \$50,000: An annual self-certification is required for a micro-purchase threshold increase up to \$50,000 with documentation made available to the federal awarding agency and auditors in accordance with §200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

- Qualification as a low-risk auditee, in accordance with the criteria in § 200.520 for the most recent audit;
- An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
- For public institutions, a higher threshold is consistent with state law.

Over \$50,000: An increase in the micro-purchase threshold over \$50,000 must be approved by the cognizant agency for indirect costs. The request must meet the same requirements as a request to increase up to \$50,000. Once approved, the increased threshold is valid until there is a change in status in which the justification was approved.

[Note your policy can be more restrictive, but it can't be less restrictive than the Uniform Guidance procurement methods thresholds described above.]

Heidelberg University adds that micro-purchases over \$2,500, Strategic Leadership Team approval must occur prior to purchase.

▪ **SMALL PURCHASE**

The small purchase method is for those relatively simple and informal procurements for securing services, supplies, or other property where the total cost is higher than the micro-purchase threshold but do not exceed the simplified acquisition threshold, currently \$250,000. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

[Heidelberg University can define the adequate number of qualified sources as long as that number is more than one.]

Heidelberg University would like to see at least three sources considered for a **SMALL PURCHASE** expense.

▪ **SEALED BID**

The sealed bid method is for bids that are publicly solicited. A firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction if the conditions below apply.

(1) For sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business;

(iii) The procurement lends itself to a firm-fixed-price contract, and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) Bids must be solicited from an adequate number of known suppliers, providing them with sufficient response time prior to the date set for opening the bids. For local and tribal governments, the invitation for bids must be publicly advertised;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(iv) A firm-fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

▪ **COMPETITIVE PROCUREMENT**

The competitive proposal method is a formal method in which either a fixed price or cost-reimbursement type contract is awarded. This method is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized, and all evaluation factors and their relative importance must be identified. Any response to publicized requests for proposals must be considered to the maximum extent practicable;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) **Heidelberg University** must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) **Heidelberg University** may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where the price is not used as a selection factor, can only be used in the procurement of A/E professional services. It cannot be used to purchase other types of services even when A/E firms are a potential source to perform the proposed effort.

- **SOLE SOURCE**

Heidelberg University recognizes sole source procurements are a form of noncompetitive procurement, and as such, additional steps are required to ensure that the procurement will be allowable to charge the federal award. Sole source procurements require a justification process that meets a narrow set of guidelines and authorization from the federal agency.

[\[See Appendix C for an example of a sole source justification form.\]](#)

Noncompetitive procurement can only be used if one or more of the following circumstances apply:

- (1) The total dollar amount for the acquisition of property or services does not exceed the micro-purchase threshold;
- (2) The item is available only from a single source;
- (3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
- (4) The federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-federal entity; or
- (5) After solicitation of a number of sources, competition is determined to be inadequate

F. PURCHASING DOCUMENTS

- **CONTRACTOR VS. SUBRECIPIENT**

The determination of whether the scope of work should be classified as a contract or a subaward is critically important because subawards must have the prior approval from the federal agency, whereas procurement contracts generally do not need the prior approval unless they are a non-competitive (sole source) procurement. Additionally, all subawards must be checked for suspension and debarment exclusion regardless of the amount.

Therefore, **Heidelberg University** must ensure the proper classification of contractors versus subrecipients. Many factors can go into this determination, but here are some general guidelines from §200.331 Subrecipient and contractor determinations.

The non-federal entity may concurrently receive federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of federal program funds places the party receiving the funds in the role of a subrecipient or a contractor. The federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations, provided such guidance does not conflict with this section.

(a) Subrecipients. A subaward's purpose is to carry out a portion of a federal award and create a federal assistance relationship with the subrecipient. See the definition under §200.1 for Subaward. Characteristics that support the classification of the non-federal entity as a subrecipient include when the non-federal entity:

- (1) Determines who is eligible to receive what federal assistance;
- (2) Has its performance measured in relation to whether the objectives of a federal program were met;
- (3) Has responsibility for programmatic decision-making;
- (4) Is responsible for adherence to applicable federal program requirements specified in the federal award; and
- (5) In accordance with its agreement, federal funds are used to carry out a program for a public purpose specified in the authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) Contractors. A contract is to obtain goods and services for the non-federal entity's own use and creates a procurement relationship with the contractor. See the definition under §200.1 for Contract. Characteristics indicative of a procurement relationship between the non-federal entity and a contractor are when the contractor:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the federal program; and
- (5) Is not subject to compliance requirements of the federal program as a result of the agreement, though similar requirements may apply for other reasons.

(c) Use of judgment in making a determination. In determining whether an agreement between a pass-through entity and another non-federal entity places the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

[\[See Appendix I Sample Contractor Vs. Subrecipient Guide\]](#)

▪ **FEDERALLY-MANDATED PROCUREMENT CONTRACT PROVISIONS**

All contracts awarded by **Heidelberg University** to subcontractors and involving a grant-funded purchase of goods or services, including small purchases, must include certain federally-mandated procurement contract provisions, described in Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts, including:

Provision	Citation
Remedies for Breach	41 USC 1908
Termination for Cause or Convenience	41 U.S.C. 1908
Equal Employment Opportunity	41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
Davis-Bacon Act	40 U.S.C. 3141-3148
Procurement of Recovered Materials	§ 200.323, Section 6002 of the Solid Waste Disposal Act, 40 CFR part 247
Davis-Bacon Act	40 U.S.C. 3141-3148
Contract Work Hours and Safety Standards Act	29 CFR Part 5, 40 U.S.C. 3701-3708, 40 U.S.C. 3702 and 3704
Copeland “Anti-Kickback” Act	40 U.S.C. 3145 and 29 CFR Part 3
Rights to Inventions Made Under a Contract or Agreement	37 CFR part 401
Clean Air Act	42 U.S.C. 7401-7671q

Federal Water Pollution Control Act	33 USC 1251-1387
Debarment and Suspension	Executive Orders 12549 and 12689
Byrd Anti-Lobbying Amendment	31 U.S.C. 1352
Procurement of Recovered Materials	§ 200.323, Section 6002 of the Solid Waste Disposal Act, 40 CFR part 247
Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment	§ 200.216, Public Law 115-232, section 889
Domestic Preferences for Procurements	§ 200.322

In addition to the contract provision listed in 2 CFR Part 200 Appendix II, contracts may also need to address additional contract clauses such as:

- Statutory and national policy requirements
- Federal agency-specific requirements for contractors
- §200.215 Never contract with the enemy, as applicable
- Provisions for bid guarantees, performance bonds, and payment bonds
- Provisions allowing access to contractor records for the federal awarding agency, Comptroller General of the United States, and any other duly authorized representative

G. CONTRACT TYPES

Contracts for the procurement of goods and services for federal awards are broken into two main types:

- Firm Fixed Price Contract
- Time and Materials Contract

The most appropriate type of contract depends on the circumstances of the procurement, but in general, the Firm Fixed Price Contract is the preferred type of contract.

▪ FIRM FIXED PRICE CONTRACT

The firm-fixed-price contract is used when the total effort or cost can be estimated with sufficient certainty. As the name implies, the price is fixed in the contract, and the risk of cost overruns is borne by the contractor and not **Heidelberg University**. This procurement type also creates a built-in incentive for the contractor to be efficient in the use of labor and materials. It is appropriate to use a firm-fixed-price contract when you can determine a fair and reasonable cost for the work before the work begins.

▪ **TIME AND MATERIALS CONTRACT**

Heidelberg University may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to **Heidelberg University** is the sum of:

- (i) The actual cost of materials; and
- (ii) Direct labor hours are charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-federal entity awarding such a contract must assert a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

▪ **PROHIBITED CONTRACT TYPES**

Cost-plus a percentage of cost and percentage of construction cost methods of contracting are explicitly prohibited for procurements supporting federal awards.

▪ **USE OF CONSULTANTS**

The use of consultants is covered in 2 CFR Part 200 Subsection §200.459 Professional service costs. Contracting for professional services has additional requirements to ensure the costs charged to the federal award are reasonable.

(a) Costs of professional and consultant services provided by persons who are members of a particular profession or possess a special skill and who are not officers or employees of the non-federal entity are allowable, subject to paragraphs (b) and (c) when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the federal government. In addition, legal and related services are limited under § 200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals, and patent infringements.

(b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:

- (1) The nature and scope of the service provided in relation to the service required.
- (2) The necessity of contracting for the service, considering the non-federal entity's capability in the particular area.
- (3) The past pattern of such costs, particularly in the years before federal awards.

(4) The impact of federal awards on the non-federal entity's business (i.e., what new problems have arisen.)

(5) Whether the proportion of federal work to the non-federal entity's total business is such as to influence the non-federal entity in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under federal awards.

(6) Whether the service can be performed more economically by direct employment rather than contracting.

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-federally funded activities.

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, an estimate of the time required, the rate of compensation, and termination provisions.)

(c) In addition to the factors in paragraph (b) of this section, to be allowable, retainer fees must be supported by evidence of bona fide services available or rendered.

H. CONTRACT ADMINISTRATION

▪ BONDING

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the federal awarding agency or pass-through entity may accept the bonding policy and requirements of **Heidelberg University** provided that the federal awarding agency or pass-through entity has made a determination that the federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

- **CONTRACT COST AND PRICE ANALYSIS**

Heidelberg University must perform a cost or price analysis in connection with every procurement action more than the Simplified Acquisition Threshold (currently \$250,000), including contract modifications. The method and degree of analysis are dependent on the facts surrounding the particular procurement situation, but as a starting point, Heidelberg University must make independent estimates before receiving bids or proposals.

Heidelberg University must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. When establishing a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-federal entity under 2 CFR Part 200 Subpart E—Cost Principles.

- **PROTESTS, DISPUTES, AND CLAIMS**

Heidelberg University alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-federal entity of any contractual responsibilities under its contracts. The federal awarding agency will not substitute its judgment for that of Heidelberg University unless the matter is primarily a federal concern. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

- **REVIEW BY FEDERAL AGENCY OR PASS-THROUGH ENTITY**

Heidelberg University must make available, upon request of the federal awarding agency or pass-through entity, technical specifications on proposed procurements where the federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-federal entity desires to have the review accomplished after a solicitation has been developed, the federal awarding agency or pass-through entity may still review the

specifications, with such review usually limited to the technical aspects of the proposed purchase.

Heidelberg University must make available upon request, for the federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

- (1) **Heidelberg University** procurement procedures or operation fails to comply with the procurement standards in this part;
- (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
- (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a “brand name” product;
- (4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement or
- (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

Heidelberg University is exempt from the pre-procurement review of this section if the federal awarding agency or pass-through entity determines that its procurement systems comply with the procurement standards in 2 CFR Part 200.

Heidelberg University may request that its procurement system be reviewed by the federal awarding agency or pass-through entity to determine whether its system meets these standards for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding and third-party contracts are awarded on a regular basis.

Heidelberg University may self-certify its procurement system. Such self-certification must not limit the federal awarding agency's right to survey the system. Under a self-certification procedure, the federal awarding agency may rely on written assurances from the non-federal entity that it is complying with these standards. The non-federal entity must cite specific policies, procedures, regulations, or standards as complying with these requirements and have its system available for review.

I. COMPETITION

2 CFR Part Subsection §200.319 Competition covers many of the requirements for full and open competition. This section covers some of the requirements to maximize the opportunities for full and open competition as required.

▪ **AFFIRMATIVE STEPS**

Affirmative steps to include contracting with small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms in procurement with federal awards are covered in 2 CFR Part 200 Subsection §200.321. **Heidelberg University** must take all necessary affirmative steps to assure that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms are used when possible. Affirmative steps must include:

- (1) Placing these business types of qualified contractors on solicitation lists;
- (2) Assuring that These business types are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by these business types;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by these business types;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce and
- 6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

▪ **DOMESTIC PREFERENCES**

(a) As appropriate and to the extent consistent with law, **Heidelberg University**, to the greatest extent practicable under a federal award, provides a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

- (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

▪ **ARCHITECTURAL AND ENGINEERING PROFESSIONAL SERVICES**

Heidelberg University may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services where the offeror's qualifications are evaluated, and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where the price is not used as a selection factor, can only be used to procure architectural/engineering (A/E) professional services. The method may not be used to purchase other services provided by A/E firms that are a potential source to perform the proposed effort.

▪ **RESTRICTING COMPETITION**

Heidelberg University must avoid situations considered to be restrictive of competition, which include but are not limited to:

- (1) Placing unreasonable requirements on firms for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

Furthermore, **Heidelberg University** must ensure that all prequalified lists of persons, firms, or products used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, potential bidders must not be precluded from qualifying during the solicitation period.

▪ **SOLICITATION REQUIREMENTS**

Heidelberg University must ensure that all solicitations:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means

to define the performance or other salient requirements of the procurement. The specific features of the named brand that must be met by offers must be clearly stated, and

(2) Identify all requirements that the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

▪ **UNFAIR COMPETITIVE ADVANTAGE**

To ensure objective contractor performance and eliminate an unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

J. CLOSEOUT PROCUREMENT

▪ **RECORD RETENTION**

It is critical that adequate documentation is maintained to support the procurement lifecycle as required by the Uniform Guidance. Therefore, records must be retained consistent with our record retention policy.

Record retention requirements for federal award recipients appear in the Record Retention and Access section of 2 CFR Part 200 Sections 200.334 through 200.338. The general rule for record retention is that the records must be retained for three years from the date of submission of the final expenditure report.

Exceptions:

- For records related to litigation, claims, or audits started before the three-year period expires, the federal award recipient must retain records until all actions have been resolved and final action related to the litigation, claims, or audits has been taken.
- For real property and equipment, records must be retained for three years from the date of the final disposition of the property.
- When the federal awarding agency maintains the records, the three-year retention requirement does not apply to the federal award recipient.
- Records for program income transactions after the period of performance: In some cases, recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-federal entity's fiscal year in which the program income is earned.

VI. APPENDICES

▪ APPENDIX A: SAMPLE PURCHASE REQUISITION FORM

[Replace with an example of your Heidelberg University's form or process.]

Purchase Requisition Form

Purchase Requisition Form	<Heidelberg University>
Requested by:	
Date:	
Description	
\$\$ Amount	
Reason for Purchase:	
Award #	
Account #	
Budget Review by:	
Date:	
In Budget? (Y/N)	
Purchase Authorized (Y/N)	
Authorizing Official Name	
Authorizing Official Title	
Date Authorized:	

APPENDIX A1- HEIDELBERG UNIVERSITY REQUISITION FORM IN BANNER

Requisition

Begin by creating a new requisition, retrieving an existing template, or searching for an existing requisition in process. Enter Vendor ID and select Vendor Validate to default related information. Enter or modify vendor, requestor, commodity, and accounting information. Use Code Lookup to query a list of available values.

Select Document Text link to attach text to the requisition. Select the Item number link to add item text for a commodity.

Choose Validate, if desired, to validate calculations and codes. Choose Complete to perform a validation and forward the document for processing. Choose Save In Process to validate and save the current contents without completion.

Search In Process Requisitions

Use Template: None Retrieve

Transaction Date: 25 SEP 2024

Delivery Date: 25 SEP 2024

Vendor ID: Vendor Validate

Address Type: Address Sequence:

Vendor Contact: Vendor E-mail:

Requestor Name: Steven Borawski

Requestor E-mail: sborawsk@heidelberg.edu

Requestor Phone:

Requestor Fax:

Chart of Accounts: 1 Organization: 540005

Currency Code: None Discount Code: None

Ship Code: GRTOFF Attention To: Grants Office

Comments: Document Text

Item	Commodity Code	Commodity Description	U/M	Quantity	Unit Price	Discount Amount	Additional Amount
1			None				
2			None				
3			None				
4			None				
5			None				

Commodity Validate

Calculated Commodity Amounts

Item	Extended Amount	Discount Amount	Additional Amount	Net Amount
1				
2				
3				
4				
5				
Totals:				

☐ Dollars

☒ Percents

Seq#	Chart	Index	Fund	Orgn	Account	Program	Activity	Location	Accounting
1									
2									
3									
4									

https://ban8web.heidelberg.edu:4442/dad_PROD/bwfkreqn.P_Requisition

1/2

9/25/24, 9:04 AM

Requisition

5

Save as Template

☐ Shared

Validate Complete Save In Process

Code Lookup

Chart of Accounts Code

Type

Code Criteria

Title Criteria

Maximum rows to return

RELEASE: 8.7

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▪ **APPENDIX B: SAMPLE SIGNATORY AUTHORIZATION MATRIX**

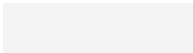
[List the procurement signatory authority for Heidelberg University here. Include titles and contact information.]

Signatory Authorization Matrix for Signing Contracts of Any Kind

Title	Phone	Signatory Authority
President	419.448.2202	Primary Signatory
VP for Finance and Administration/CFO	419.448.2517	Primary Signatory

Authorizations for Procurements

Name	Title	Phone	Email	Signatory Authority	Accounts
EMPLOYEE - General	Varies	Employee Directory online	Employee Directory online	\$50.00	ALL
PROJECT DIRECTORS	Varies	Employee Directory online	Employee Directory online	\$500.00	ALL
DEPARTMENT HEADS	Varies	Employee Directory online	Employee Directory online	\$2,000.00	ALL
SINGLE MEMBER of the Strategic Leadership Team	(See list below)	Employee Directory online	Employee Directory online	Up to \$2,500.00	ALL
FULL Strategic Leadership Team https://www.heidelberg.edu/about/presidents-office/leadership	<u>Chris Abrams, EdD</u> Dean of Student Affairs <u>Greg Cooper, MS</u> Director of Athletics <u>Courtney DeMayo Pugno</u> Vice President for Academic Affairs and Provost <u>Ashley Helmstetter, BA</u> Associate Vice President for Advancement, Alumni, and Community Relations	Employee Directory online	Employee Directory online	\$2,500.00 to \$10,000.00	ALL

	<u>Victoria Black</u> Chief Human Resources and Compliance Officer <u>Morgan Harrigan</u> Executive Director of Admissions and Enrollment <u>Robert H. Huntington, EdD</u> President <u>Vickie Sayre</u> Vice President of Finance and Administration (CFO) <u>Davida Sosa</u> Executive Assistant to the President, Advancement, Finance, Human Resources, and The Board of Trustee				
PRESIDENT AND/OR BOARD OF TRUSTEES Current Board of Trustees listings are posted at the following web address https://www.heidelberg.edu/about/presidents-office/leadership	<u>Robert H. Huntington, EdD</u> President 	see Employee Directory online	see Employee Directory online	\$10,000 or above, and/or Board approval is requested for Major Capital Improvement/ New Building Construction	ALL

- ***PLEASE CONSULT THE WWW.HEIDELBERG.EDU WEBSITE FOR THE MOST CURRENT LIST OF BOARD OF TRUSTEE MEMBERS.**

APPENDIX B1 - HEIDELBERG UNIVERSITY Signatory Authorization Expense Approval in Banner

9/25/24, 9:10 AM

Expense Approval | inside.heidelberg.edu



Expense Approval

All expenses over \$50 require approval BEFORE a purchase order is requested. This applies whether purchases will be covered from operating budget, endowed funds, restricted funds, or gifts.

Student Organizations: Your chair/director is Chris Abrams, Dean of Student Affairs.

Date

First

(continued next page)

Last

Your Heidelberg Email

Chair/Director Name

Chair/Director Email

Account or Fund #

Name of Account or Fund

■ Amount

Vendor(s)

Rationale for expense, including course or activity the purchase supports:

Was this expense included in the 2023-24 proposed budget?

- Select -

If the expense will be covered from a source other than the operating budget, note how purchase complies with any restrictions on that source, e.g., how the intended purchase supports the intent of endowed funds.

APPENDIX C: SAMPLE SOLE SOURCE JUSTIFICATION FORM

[Replace with an example of your Heidelberg University's form or process.]

Sole Source Justification Form

Sole Source Justification Form	<Heidelberg University>
Requested by:	
Date:	
Description	
\$\$ Amount	
Reason for Sole Source (Check all that apply)	☐ The total dollar amount for the acquisition of property or services does not exceed the micro-purchase threshold. ☐ The item is available only from a single source. ☐ The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation. ☐ The federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-federal entity. ☐ After solicitation of a number of sources, competition is determined to be inadequate.
Award #	
Purchase Authorized (Y/N)	
Authorized by: (Official Name)	
Authorizing Official Title	
Date Authorized:	
Funding Agency by: (Official Name)	
Agency Official Title	
Date Authorized:	

▪ **APPENDIX D: SAMPLE PURCHASE ORDER FORM**

[Replace with an example of your Heidelberg University's form or process.]

Purchase Order Form

Purchase Order Form	<Heidelberg University>
Purchase Order #	
Date:	
Award/Project #	
Contractor	
Ship to Address	
Catalog #	
Quantity	
Description	
Unit Price	
Compared and verified with the packing list and actual shipment received	
Receiver's Name	
Date	

▪ **APPENDIX E: SAMPLE BID SOLICITATION FORM**

[Replace with an example of your Heidelberg University's form or process.]

Bid Solicitation

<Heidelberg University> requests Bids from responsible vendors to meet its upcoming needs. A brief description of the procurement is provided for Bidder's convenience, with detailed requirements in subsequent sections of this solicitation. If you are interested and able to meet these requirements, <Heidelberg University> welcomes a Bid from your company.

Brief Description:

[Enter the description of the work]

The resulting contract with the awarded Bidder shall begin [Enter beginning date]. In no event exceed [Enter ending date].

Please read the entire solicitation package and submit a Bid for evaluation in accordance with the instructions.

[Add additional details on how to submit a bid and what forms are required.]

All forms and signature areas contained in the solicitation package must be completed in full and submitted along with the proposal, which will constitute the bid.

Bids that do not conform to the solicitation form and bid requirements may not be considered.

▪ **APPENDIX F: SAMPLE SOLICITATION EVALUATION FORM**

[Replace with an example of your Heidelberg University's form or process.]

Solicitation Evaluation Form

Solicitation Evaluation <Heidelberg University>	Bidder #1 [Contractor Name]	Bidder #2 [Contractor Name]	Bidder #3 [Contractor Name]	Bidder #4 [Contractor Name]
Bid Requirement 1.1 [Enter Description]	[Enter Bidder's Response to Requirement]	[Enter Bidder's Response to Requirement]	[Enter Bidder's Response to Requirement]	[Enter Bidder's Response to Requirement]
Total Points	Points Awarded:	Points Awarded:	Points Awarded:	Points Awarded:
[Enter Total Points for Requirement]	[Enter Points for Bidder]	[Enter Points for Bidder]	[Enter Points for Bidder]	[Enter Points for Bidder]

Solicitation Evaluation <Heidelberg University>	Bidder #1 [Contractor Name]	Bidder #2 [Contractor Name]	Bidder #3 [Contractor Name]	Bidder #4 [Contractor Name]
Bid Requirement 2.1 [Enter Description]	[Enter Bidder's Response to Requirement]	[Enter Bidder's Response to Requirement]	[Enter Bidder's Response to Requirement]	[Enter Bidder's Response to Requirement]
Total Points	Points Awarded:	Points Awarded:	Points Awarded:	Points Awarded:

[Enter Total Points for Requirement]	[Enter Points for Bidder]	[Enter Points for Bidder]	[Enter Points for Bidder]	[Enter Points for Bidder]
--------------------------------------	---------------------------	---------------------------	---------------------------	---------------------------

Total Bidder Score				
Solicitation Evaluation <Heidelberg University>	Bidder #1 [Contractor Name]	Bidder #2 [Contractor Name]	Bidder #3 [Contractor Name]	Bidder #4 [Contractor Name]
Total Possible Points:	Total Points Awarded:	Total Points Awarded:	Total Points Awarded:	Total Points Awarded:
[Enter Total Possible Points for All Requirement]	[Enter Points for Bidder]	[Enter Points for Bidder]	[Enter Points for Bidder]	[Enter Points for Bidder]

▪ **APPENDIX G: SAMPLE RECEIVING DOCUMENT FORM**

[Replace with an example of your Heidelberg University's form or process.]

Receiving Document

Receiving Form <Heidelberg University>	Purchase Order # [PO Number]	Contractor [Contractor Name]	Received by: [Receiver Name]	Date Received: [Date]	Freight Charges: [Attach Freight bill]
Item #	Description	Quantity Ordered	Unit Price	Extended	Quantity Received
[Enter Item Number]	[Enter Description]	[Enter Quantity Ordered]	[Enter Unit Price]	[Enter Expended Price]	[Enter Actual Qty. Received]
[Enter Item Number]	[Enter Description]	[Enter Quantity Ordered]	[Enter Unit Price]	[Enter Expended Price]	[Enter Actual Qty. Received]

▪ **APPENDIX H: SAMPLE PROCUREMENT RECORDS CHECKLIST**

[Replace with an example of your Heidelberg University's form or process.]

Procurement Records Checklist

Items to include in the Procurement Records:

- ☐ **Description of Goods and Services**
 - ☐ **Clear, accurate description that includes technical requirements**
 - ☐ **Don't unduly restrict competition**
- ☐ **Requirements**
 - ☐ **Technical requirements regarding the functions to be performed**
 - ☐ **What requirements is the bidder expected to fulfill?**
 - ☐ **What factors will be used to evaluate the bids?**
- ☐ **Selection basis for contractor**
- ☐ **Cost or Price basis for goods and services**
- ☐ **Cost or price analysis**
- ☐ **Excluded Parties review**

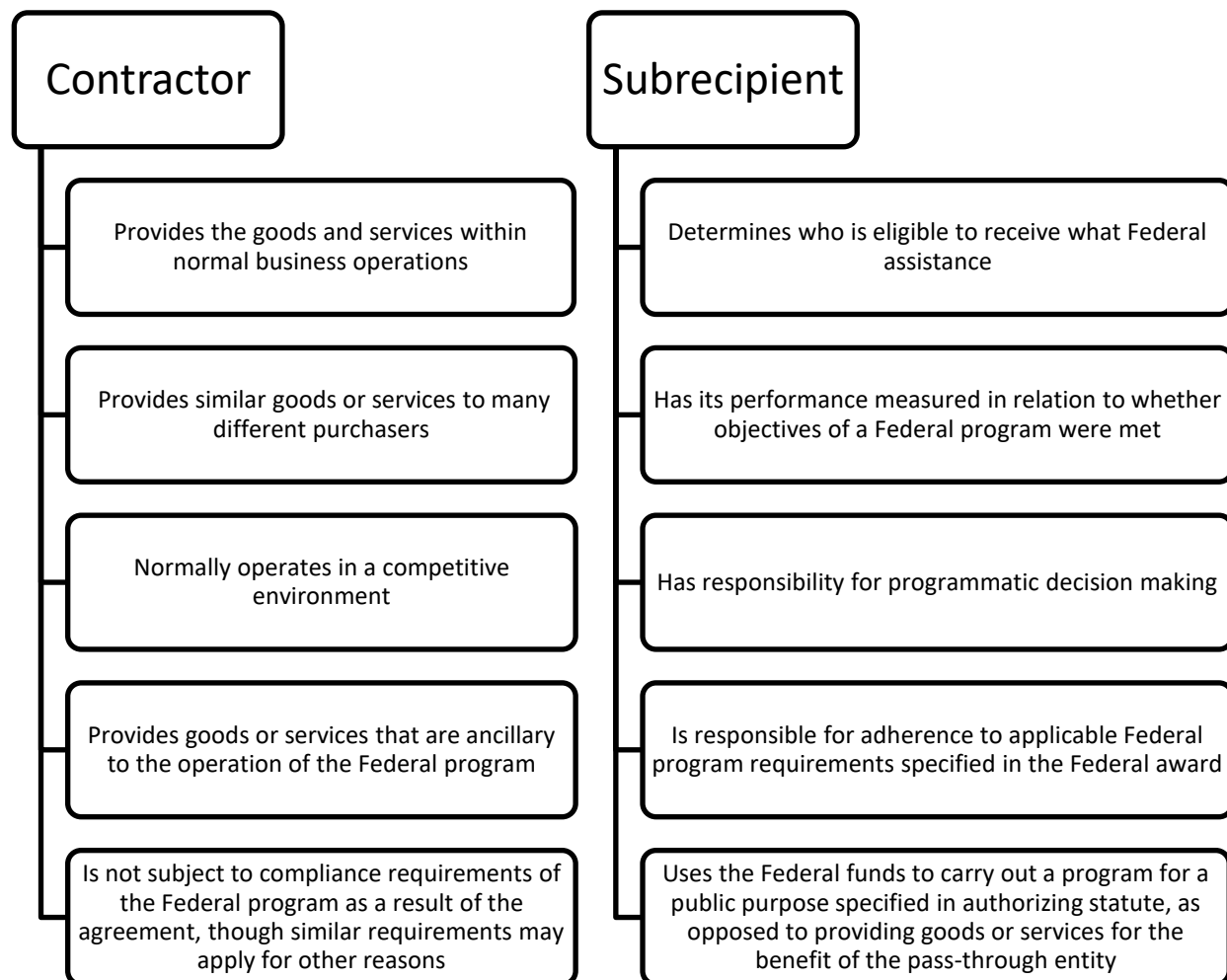
If applicable, include:

- ☐ **Lease vs. buy decision**
 - ☐ **Which option is the most economical and practical?**
- ☐ **Written justification for lack of competition, such as sole source**
- ☐ **Contract provisions**
- ☐ **Other Compliance Documentation**
- ☐ **Other** _____
- ☐ **Other** _____

▪ **APPENDIX I: SAMPLE CONTRACTOR VS. SUBRECIPIENT GUIDE**

[Replace with an example of your Heidelberg University's form or process.]

Contractor Vs. Subrecipient Guide



Determination:

▪ **APPENDIX J: SAMPLE CONTRACTOR AGREEMENT FOR SERVICES**

[Consult Heidelberg University CFO or President for most current agreement template.]

NOTE: My Fed Trainer, LLC provides grant management information that is not legal advice. Grant management information communicates federal grant regulations but does not advise you on what course of action is best for your unique legal situation. My Fed Trainer, LLC does not provide legal advice. Attorneys provide legal advice. If you have a legal question, we encourage you to consult an attorney. The products offered by My Fed Trainer, LLC are not a substitute for the advice of an attorney.

<COMPANY NAME>

CONTRACT FOR SERVICES AGREEMENT

This Contract for Services Agreement ("Agreement"), made effective as of the date shown on the signature page ("Effective Date"), is entered into by and between **<Company Name>** ("Company"), having its principal place of business at [Address] and the other party signing the signature page for **<Contractor>** ("Contractor"), having its principal place of business as shown on the signature page (each a "Party"; together the "Parties").

WHEREAS Company is a recipient of a federal award **<Award Number>** from **<Funding Source>**.

Company desires to retain Contractor as an independent contractor to perform services for Company, and Company is willing to perform such services on the basis set forth more fully below.

In consideration of the mutual promises contained herein, the Company and Contractor agree as follows:

1. **SERVICES.** As and when the Company wishes the Contractor to provide services, the Parties will execute a project assignment in the form attached as EXHIBIT A ("Project Assignment"). The Contractor will perform the services described in each Project Assignment ("Services") in a professional and skilled manner according to the schedule of work set forth therein. The Contractor may perform services for any other person or entity so long as the Contractor does not perform similar services for a direct competitor of the Company and so long as the Contractor's performance of such services does not interfere with the performance of the Contractor's obligations under this Agreement. Any material change to the scope of work requires the Company's written prior approval. The Contractor is being retained under the terms and conditions of this Contract for Services Agreement. The Scope of Services of the Contractor shall include but not be limited to the duties outlined in EXHIBIT A, incorporated in this document and made a part of the agreement. The Company represents that they are knowledgeable and experienced in providing these services.

2. **PERIOD OF PERFORMANCE.** The period of performance for the federal award begins **<Beginning Date>** and terminates on **<Ending Date>** unless amended in writing by the parties.

The Company is under no obligation to pay the Contractor for services or expenses provided, and the Contractor is under no obligation to perform services before the beginning date or after the ending date of the period of performance.

3. PAYMENT FOR SERVICES. The Company will pay the Contractor the fees and expenses outlined in the Project Assignment for the performance of the Services described therein. The Contractor acknowledges that its sole compensation for the Services will be these fees and expenses and that the Company will have no liability of any kind to the Contractor, in contract or otherwise, beyond such fees and expenses.

The Contractor will email the invoice to:

Company Name	
Company Point of Contact	
Company Email	
Company Phone	
Company Address	

4. RELATIONSHIP OF PARTIES. The Contractor will perform the Services under the general direction of the Company, but the Contractor will determine, in the Contractor's sole discretion, the manner and means by which the Services are accomplished, subject to the express condition that the Contractor will at all times comply with applicable law. The Contractor is an independent contractor, and the Contractor is not an agent or employee of the Company and has no authority whatsoever to bind the Company by contract or otherwise.

5. FACILITIES, EXPENSES, INSURANCE, RECORDS, AND LICENSES. The Contractor will provide its own facilities and place of business to perform the Services, and the Contractor will bear the entire cost of its facilities without reimbursement by the Company. The Company will have no obligation to reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of the Services except as otherwise provided in the Project Assignment. The Contractor will be responsible for providing, for itself and its employees, at its expense and in its own name, disability, liability, workers' compensation, and other business insurance as is necessary, appropriate, and required by law. In connection with its performance of the Services, the Contractor agrees that it will be solely responsible for and will maintain any records required by law. The Contractor agrees that it will obtain all required licenses (if any) relating to its performance of the Services.

6. TAXES AND BENEFITS. No part of the Contractor's compensation under this Agreement will be subject to withholding for any federal, state, social security, workers' compensation, or other required taxes or payments. The Company will report all fees paid to the Contractor to

the Internal Revenue Service (and other taxing agencies) on Form 1099 or other appropriate forms as required. The Contractor acknowledges and agrees that it will be the obligation of the Contractor to report as income and pay all taxes upon all compensation received by the Contractor pursuant to this Agreement. Contractor agrees to indemnify Company and hold it harmless to the extent of any obligation imposed on Company to pay any taxes or insurance, including without limitations, withholding taxes, social security, unemployment, or disability insurance, including the interest and penalties thereon, in connection with any payments made to Contractor by Company pursuant to this Agreement. The contractor agrees to pay, indemnify, and hold the Company harmless from any Tax imposed by any governmental authority concerning either or both of any payment to be made by the Company under this Agreement or any item to be delivered by the Contractor to Company under this Agreement. For purposes of this Agreement, "Tax" will mean any tax, fee, or cost not based on the Contractor's net income, including, but not limited to, sales, use, excise, value-added, withholding, or similar tax or any fees and penalties or interest associated with any of the foregoing.

7. INTELLECTUAL PROPERTY.

7.1 DEVELOPED IP. Materials developed by the Contractor specifically for the Company will be considered the property of the Company, with full use rights granted when the payment is received in full. The Contractor solely reserves the rights to all other [specify] materials developed by the Contractor in written, digital, and other forms.

7.2 OWNERSHIP AND PUBLICATION OF MATERIALS: All material and other information generated under this contract shall be the shared property of Company and Contractor.

7.3 WARRANTY. The Contractor warrants that, in rendering Services hereunder, it will not knowingly infringe or have reason to know of any infringement of any patent, copyright, trademark, mask work, or other intellectual property, right of any third party or otherwise misappropriate, use, or disclose any trade secret of any third party. The contractor will use its best efforts to avoid any such infringement. The contractor hereby agrees to indemnify and defend the Company, and otherwise hold the Company harmless, against any claim for such patent, copyright, trademark, trade secret, mask work, or other intellectual property infringement or misappropriation and any other loss, damage, award, or expense (including reasonable attorney's fees) resulting from such a claim.

8. **CONFIDENTIALITY.** The contractor agrees to hold the Company's Confidential Information in strict confidence and not to disclose such Confidential Information to any third parties. [Contractor] further agrees to deliver all Confidential Information promptly in Contractor's possession to Company at any time upon Company's request. For purposes hereof, "Confidential Information" will include all confidential and proprietary information disclosed by the Company, including but not limited to technical and business information relating to the Company's costs, profit or margin information, finances, customers, suppliers, marketing, and production, personnel, and future business plans. "Confidential Information" also includes proprietary or confidential information of any third party who may disclose such information to

Company or [Consultant] in the course of Company's business. The above obligations will not apply to Confidential Information which (a) is already known to the Contractor at the time it is disclosed; (b) has become publicly known through no wrongful act of the Contractor; (c) has been rightfully received from a third party without restriction on disclosure and without breach of this Agreement or other Agreements entered into by Company; (d) has been independently developed by the Contractor; (e) has been approved for release by written authorization of Company; or (f) has been disclosed pursuant to a requirement of a governmental agency or of law.

9. TERMINATION. This Agreement will commence on the Effective Date and will continue until terminated as follows:

(a) Either Party may terminate the Agreement upon notice to the other Party in the event of a breach by the other Party of any of its obligations hereunder if such breach continues uncured for a period of [specify five (5) days] after notice of such breach to the other Party;

(b) Either Party may terminate this Agreement upon notice to the other Party if the other Party is adjudicated bankrupt, files a voluntary petition of bankruptcy, makes a general assignment for the benefit of creditors, is unable to meet its obligations in the normal course of business as they fall due or if a receiver is appointed on account of insolvency;

(c) Either Party may terminate this Agreement for its convenience upon thirty (30) days' notice to the other if there is no outstanding Project Assignment. The Company may terminate this Agreement for its convenience if the Contractor has not commenced work under an outstanding Project Assignment. In addition, if the Contractor has commenced work under a Project Assignment, the Company may terminate an outstanding Project Assignment by paying the Contractor a termination fee of [specify ten percent (10%)] of the unpaid fee for Services which have been performed under such Project Assignment.

(d) If funds are not appropriated from which the Company can fulfill these obligations, this Agreement for services will automatically terminate. In the event of such termination, reimbursement will be for work completed and approved by Company before the effective date of such termination. Neither the Company nor the Contractor shall make any commitment for services beyond the period of which funds have been appropriated.

(e) Upon the termination of this Agreement for any reason, each Party will be released from all obligations and liabilities to the other occurring or arising after the date of such termination, except that any termination will not relieve Contractor or Company of their obligations under Paragraph 6 ("Taxes and Benefits"), Paragraph 7 ("Intellectual Property"), Paragraph 8 ("Confidentiality") Paragraph 10 ("General") and Paragraph 11 ("Federally Mandated Contract Provisions"), nor will any such termination relieve Contractor or Company from any liability arising from any breach of this Agreement. Upon the termination of this Agreement for any reason, the Contractor will immediately return to the Company any Company property or information (including Confidential Information) that is in the Contractor's possession or control.

10. GENERAL.

10.1 PRE-EXISTING OBLIGATIONS. The contractor represents and warrants that the Contractor is not under any preexisting obligation or obligations inconsistent with the provisions of this Agreement.

10.2 ASSIGNMENT. The rights and liabilities of the Parties will bind and inure to the benefit of their respective successors, executors, and administrators, as the case may be, provided that the Contractor may only assign this Agreement either in whole or in part with the prior written consent of the Company.

10.3 EQUITABLE RELIEF. Because Contractor will have access to and become acquainted with the Confidential Information of Company, Contractor agrees that Company will have the right to enforce this Agreement and any of its provisions by injunction, specific performance, or any other equitable relief without prejudice to any other rights and remedies that Company may have for the breach of this Agreement.

10.4 GOVERNING LAW; SEVERABILITY. This Agreement will be governed by and construed in accordance with the laws of the State of <State>. If any provision of this Agreement is for any reason found by a court of competent jurisdiction to be unenforceable, the remainder of Agreement will continue in full force and effect.

10.5 COMPLETE UNDERSTANDING; MODIFICATION. This Agreement constitutes the full and complete understanding and agreement between the Parties and supersedes all prior understandings and agreements. Any waiver, modification, or amendment of any provision of this Agreement will be effective only if in writing signed by the Parties.

10.6 NOTICES. Any notices required or permitted hereunder will be given in writing to the appropriate Party at the address specified at the beginning of this Agreement for Company, the signature page for Contractor, or at such other address as the Party will specify in writing and will be by personal delivery, facsimile transmission or certified or registered mail. Such notice will be deemed given upon personal delivery to the appropriate address or upon receipt of electronic transmission or, if sent by certified or registered mail, three days after the date of the mailing.

10.7 CONFLICT OF INTEREST. During the term of this Contract for Services Agreement and at any time thereafter, the Contractor shall not act as an agent or in a liaison capacity as an officer, employee, agent, or representative of any Company supplier or prospective supplier, nor serve in any of the foregoing capacities for any of Company's clients or prospective clients, without the prior written approval of the Company. The contractor hereby warrants that there is no conflict of interest in the Contractor's other agreements or other employment, if any, with the activities to be performed hereunder and shall advise the Company if a conflict of interest arises in the future. Contractor shall avoid all circumstances and actions which reasonably would place the Contractor in a position of divided loyalty with respect to its obligations under this Contract for Services Agreement.

10.8 ACCESS TO RECORDS. Contractor agrees to maintain books and records pertaining to all costs incurred in such detail as will properly document all expenses for which

reimbursement is claimed. The books of account and other records, which are applicable to this Agreement, shall always be available for inspection and review by the Company, Federal awarding agency, Comptroller General of the United States, and any other duly authorized representative

10.9 ANTI-DISCRIMINATION/EEOC. **All contracts in excess of \$10,000** shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a) as applicable. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin.

11. FEDERALLY MANDATED CONTRACT PROVISIONS-UNIFORM GUIDANCE.

11.1 COMPLIANCE WITH CONTRACT PROVISIONS. In accordance with 2 CFR Part 200 Appendix II to Part 200—Contract Provisions for non-federal Entity, the contractor agrees to comply with all applicable contract provisions contained therein. 2 CFR Part 200 Appendix II to Part 200—Contract Provisions for non-federal Entity can be viewed at <https://ecfr.federalregister.gov/current/title-2/subtitle-A/chapter-II/part-200#Appendix-II-to-Part-200>

11.3 DEBARMENT AND SUSPENSION. Furthermore, the Contractor certifies that to the best of its knowledge and belief, it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

11.4 BID GUARANTEES AND BONDS. In accordance with § 200.326 for construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-federal entity provided that the federal awarding agency or pass-through entity has made a determination that the federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(A) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(B) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(C) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract

to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

11.5 CONTRACTING WITH SMALL BUSINESSES, MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, VETERAN-OWNED BUSINESSES, AND LABOR SURPLUS AREA FIRMS In accordance with § 200.321 "Contracting with small and minority businesses, women's business enterprises, veteran-owned businesses and labor surplus area firms," if subcontracts are to be let, the prime contractor agrees to take the affirmative steps such as those listed in paragraphs (1) through (5) of this section.

- (1) Placing these qualified business types on solicitation lists;
- (2) Assuring that these business types are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by these business types;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by these business types;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce

11.6 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. In accordance with § 200.216 "Prohibition on certain telecommunications and video surveillance services or equipment," the contractor represents that they are not expending loan or grant funds to (1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
- (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the

Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. IN WITNESS WHEREOF, the Parties have signed this Agreement as of the Effective Date.

Effective Date: <Effective Date of Agreement>

Company:

<Company>

For the Company:

Name:

Title:

Principal place of business:

Contractor:

<Contractor>

For the Contractor:

Name:

Title:

Principal place of business:

EXHIBIT A

PROJECT ASSIGNMENT

PROJECT:

<Name of Project>

SCOPE OF WORK: [choose one]

Option #1: [List of Services]

Option #2: Contractor will perform the services listed in the attached project proposal dated <date of proposal>. [Attach accepted project proposal]

SCHEDULE OF WORK:

Effective Date: <Effective date of work>

Time Period/Schedule: For the period beginning <beginning date> and ending <ending date>, the Contractor hours will work <work schedule or “as needed”>. It is expected that this project will be no more than <limit on hours-if applicable> in total.

FEES AND PAYMENT:

Fees: During <time period>, contracting work performed that is consistent with the scope of work will be billed at the rate of <hourly rate or firm fixed price contract> and invoiced <frequency of invoices>. In the invoice, the contractor shall describe the services performed, the date(s) of service, and the percentage of completion of services represented by the invoice in accordance with the scope of work in <Exhibit A>

Terms: Invoices approved by <Title of invoice approver> of the Company shall be paid <terms of payment> days after approval. Payment should be made to <Contractor Principal Place of Business or Payment Address if different>.

Executed as of <Effective Date>

<Company>

For the Company:

Name:

Title:

<Contractor>

For the Contractor:

Name:

Title:

- **APPENDIX K: SAMPLE SUBRECIPIENT AGREEMENT LINKS**

[Replace with an example of your Heidelberg University's subaward agreement.]

Subrecipient Agreements are considered non-procurement transactions, but for your information, several examples of Subrecipient Agreements may be viewed at:

https://www.capl原因.org/resources/modelpoliciesDocuments/CAPLAW_SampleSubawardAgreement_Sept2015.doc

https://www.epa.gov/sites/production/files/2016-12/documents/gmc_subaward_policy_appendix_d_subaward_agreement_template_revised_on_12_16_16.pdf

https://www.nist.gov/system/files/documents/tip/fdp_subawardagreement.pdf

https://www.epa.gov/sites/production/files/2016-02/documents/gmc_subaward_policy_appendix_d_subaward_agreement_template.pdf

▪ **APPENDIX L: SAMPLE CONTRACTOR EVALUATION CHECKLIST**

[Replace with an example of your Heidelberg University's form or process.]

Contractor Evaluation Checklist

Heidelberg University is required to award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, a record of past performance, and financial and technical resources.

☐ **Contractor Integrity**

☐ **Do they have a Standards of Conduct and Conflict of Interest Policy?**

☐ **What is their Better Business Bureau (BBB) Rating?**

☐ **Do they have a Board of Directors providing oversight?**

☐ **Do they have an annual audit? If so, have there been findings?**

☐ **Compliance with Public Policy**

☐ **Do they have a history of complaints about discrimination or other public policy violations?**

☐ **How do they stay up to date on public policy requirements?**

☐ **Record of Past Performance**

☐ **What is their past performance with our Heidelberg University?**

☐ **Who are some of their previous and current clients that you can check with about their experience?**

☐ **Do they have a reputation for completing their work on schedule?**

☐ **Financial Resources**

☐ **How long have they been in business?**

☐ **Who owns the company?**

☐ **How strong is their Balance Sheet?**

☐ **What is the D & B Rating or another credit rating?**

☐ **Technical Resources**

☐ Who will be providing technical expertise?

☐ If required, is their license current and in good standing?

☐ **Suspension and Debarment**

☐ Is the company suspended or debarred?

☐ Is the principal suspended or debarred?

☐ Other _____

☐ Other _____

▪ APPENDIX M: SELECTED ITEMS OF COST

2 CFR Part 200 Sections 200.420 through 200.476 titled General Provisions for Selected Items of Cost provide principles to be applied in establishing the allowability of certain items of cost. These principles apply whether a cost is treated as direct or indirect. Failure to mention a particular item of cost is not intended to imply that it is unallowable; rather, determination of allowability in each case should be based on the treatment standards provided for similar or related items of cost.

General Provisions for Selected Items of Cost

200.420 Considerations for selected items of cost.	200.449 Interest.
200.421 Advertising and public relations.	200.450 Lobbying.
200.422 Advisory Councils.	200.451 Losses on other awards or contracts.
200.423 Alcoholic beverages.	200.452 Maintenance and repair costs.
200.424 Alumni activities.	200.453 Materials and supplies costs, including costs of computing devices.
200.425 Audit services.	200.454 Memberships, subscriptions, and professional activity costs.
200.426 Bad debts.	200.455 Heidelberg University costs.
200.427 Bonding costs.	200.456 Participant support costs.
200.428 Collections of improper payments.	200.457 Plant and security costs.
200.429 Commencement and convocation costs.	200.458 Pre-award costs.
200.430 Compensation—personal services.	200.459 Professional service costs.
200.431 Compensation—fringe benefits.	200.460 Proposal costs.
200.432 Conferences.	200.461 Publication and printing costs.
200.433 Contingency provisions.	200.462 Rearrangement and reconversion costs.
200.434 Contributions and donations.	200.463 Recruiting costs.
200.435 Defense and prosecution of criminal and civil proceedings and claims, appeals and patent infringements.	200.464 Relocation costs of employees.
200.436 Depreciation.	200.465 Rental costs of real property and equipment.
200.437 Employee health and welfare costs.	200.466 Scholarships, student aid costs, and tuition remission.
200.438 Entertainment and prizes.	200.467 Selling and marketing costs.
200.439 Equipment and other capital expenditures.	200.468 Specialized service facilities.
200.440 Exchange rates.	200.469 Student activity costs.
200.441 Fines, penalties, damages, and other settlements.	200.470 Taxes (including Value Added Tax).
200.442 Fundraising and investment management costs.	200.471 Telecommunication costs and video surveillance costs.
200.443 Gains and losses on disposition of depreciable assets.	200.472 Termination and standard closeout costs.
200.444 General costs of government.	200.473 Training and education costs.
200.445 Goods or services for personal use.	200.474 Transportation costs.
200.446 Idle facilities and idle capacity.	200.475 Travel costs.
200.447 Insurance and indemnification.	200.476 Trustees.
200.448 Intellectual property.	

§ 200.420 Considerations for selected items of cost.

(a) This section provides principles to be applied in establishing the allowability of certain items involved in determining cost, in addition to other requirements of this subpart. These principles apply whether or not a particular cost item is properly treated as a direct or indirect cost.

(b) The following sections are not intended to be a comprehensive list of potential items of cost encountered under Federal awards. Failure to mention a particular item of cost, including as an example in certain sections, is not intended to imply that it is either allowable or unallowable. When determining the allowability for an item of cost, each case should be based on the treatment provided for similar or related items of cost and based on the principles described in §§ 200.402 through 200.411. In case of a discrepancy between the provisions of a specific Federal award and the provisions below, the Federal award governs. Criteria outlined in § 200.403 must be applied in determining allowability.

§ 200.421 Advertising and public relations.

(a) The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media includes, but is not limited to, magazines, newspapers, radio and television, direct mail, exhibits, and electronic or computer transmittals.

(b) The only allowable advertising costs are those which are solely for:

(1) The recruitment of personnel required by the recipient or subrecipient for the performance of a Federal award (See also § 200.463);

(2) The procurement of goods and services for the performance of a federal award;

(3) The disposal of scrap or surplus materials acquired in the performance of a federal award except when the recipient or subrecipient is reimbursed for disposal costs at a predetermined amount; or

(4) Program outreach (for example, recruiting project participants) and other specific purposes necessary to meet the federal award requirements.

(c) The term “public relations” includes community relations and means those activities dedicated to maintaining the recipient's or subrecipient's image or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

(d) The only allowable public relations costs are:

(1) Costs specifically required by the federal award;

(2) Costs of communicating with the public and press about specific activities or accomplishments which result from the performance of the federal award (these costs are considered necessary as part of the outreach effort for the federal award); or

(3) Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of funding opportunities or financial matters.

(e) Unallowable advertising and public relations costs include the following:

(1) All advertising and public relations costs other than as specified in paragraphs (b) and (d) of this section;

(2) Costs of meetings, conventions, conferences, or other events related to other activities of the entity (see also § 200.432), including:

(i) Costs of displays, demonstrations, and exhibits;

(ii) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and

(iii) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;

(3) Costs of promotional items and memorabilia;

(4) Costs of advertising and public relations designed solely to promote the recipient or subrecipient.

§ 200.422 Advisory councils.

An advisory council or committee is a body that provides advice to the management of such entities as corporations, organizations, or foundations. Costs incurred by both internal and external advisory councils or committees are allowable if authorized by statute, the federal agency, or as an indirect cost where allocable to federal awards. See § 200.444, which applies to states, local governments, and Indian Tribes.

§ 200.423 Alcoholic beverages.

The cost of alcoholic beverages is unallowable.

§ 200.424 Alumni activities.

Costs incurred by IHEs for, or in support of, alumni activities are unallowable.

§ 200.425 Audit services.

(a) A reasonably proportionate share of the costs of audits required by and performed in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), and the requirements of this part are allowable. However, the following audit costs are unallowable:

- (1) Any costs when audits required by the Single Audit Act and subpart F of this part have not been conducted, or have been conducted but not in accordance with the requirements; and
- (2) Except as provided for in paragraph (c) of this section, any costs of auditing a non-federal entity that is exempted from having an audit conducted under the Single Audit Act and subpart F of this part because its expenditures under federal awards are less than \$1,000,000 during its fiscal year.”

(b) The costs of a financial statement audit of a recipient or subrecipient that does not currently have a federal award may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal.

(c) Pass-through entities may charge federal awards for the cost of agreed-upon procedures engagements to monitor subrecipients (in accordance with §§ 200.331-333) exempt from having an audit conducted under the Single Audit Act and the requirements of this part. This cost is allowable only if the agreed-upon procedures engagements are:

- (1) Conducted in accordance with GAGAS or applicable international attestation standards, as appropriate;
- (2) Paid for and arranged by the pass-through entity; and
- (3) Limited in scope to one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; and reporting.

§ 200.426 Bad debts.

Bad debts (debts determined to be uncollectable), including losses (whether actual or estimated) arising from uncollectable accounts and other claims, are unallowable. Related collection costs, and related legal costs, arising from such debts are also unallowable. See § 200.428.

§ 200.427 Bonding costs.

(a) Bonding costs arise when the federal agency requires assurance against financial loss to itself or others because of an act or default of the recipient or subrecipient. They also arise when the recipient or subrecipient requires similar assurance, including bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds for employees and officials.

(b) Costs of bonding required under the federal award's terms and conditions are allowable.

(c) Costs of bonding required by the recipient or subrecipient in the general conduct of its operations are allowable as an indirect cost to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

§ 200.428 Collections of improper payments.

The costs incurred by a recipient or subrecipient to recover improper payments, including improper overpayments, are allowable as either direct or indirect costs, as appropriate. The recipient or subrecipient may use the amounts collected in accordance with cash management standards described in § 200.305.

§ 200.429 Commencement and convocation costs.

For IHEs, costs incurred for commencements and convocations are unallowable, except as activity costs provided for in Appendix III, (B)(9) Student Administration and Services.

§ 200.430 Compensation—personal services.

(a) General. Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits addressed in § 200.431. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part and that the total compensation for individual employees:

- (1) Is reasonable for the services rendered and conforms to the established written policy of the recipient or subrecipient consistently applied to both federal and non-federal activities;
- (2) Follows an appointment made in accordance with the recipient's or subrecipient's laws, rules, or written policies and meets the requirements of federal statute, where applicable; and
- (3) Is determined and supported as provided in paragraph (g) of this section, when applicable.

(b) Reasonableness. Compensation for employees engaged in work on federal awards will be reasonable to the extent that it is consistent with that paid for similar work in other activities of the recipient or subrecipient. In cases where the kinds of employees required for federal awards are not found in the other activities of the recipient or subrecipient, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the recipient or subrecipient competes for the kind of employees involved.

(c) Professional activities outside the recipient or subrecipient. Unless the federal agency expressly authorizes an arrangement, a recipient or subrecipient must follow its written policies and procedures concerning the permissible extent of professional services that can be provided outside the recipient or subrecipient for non-organizational compensation. Where the recipient or subrecipient does not have written policies or procedures, or they do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the federal government may require the recipient or subrecipient to allocate the effort of professional staff working on federal awards between:

(1) Recipient or subrecipient activities, and

(2) Non-organizational professional activities. Appropriate arrangements governing compensation must be negotiated on a case-by-case basis if the federal agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the federal award.

(d) Unallowable costs.

(1) Costs unallowable under other sections of these principles must not be allowable under this section solely because they constitute personnel compensation.

(2) The allowable compensation for certain employees is subject to a ceiling in accordance with federal statute. See 10 U.S.C. 3744(a)(16), 41 U.S.C. 1127, and 41 U.S.C. 4304(a)(16) for the ceiling amount, covered compensation subject to the ceiling, covered employees, and other relevant provisions for cost-reimbursement contracts. For other types of federal awards, other statutory ceilings may apply.

(e) Special considerations. Special considerations in determining the allowability of compensation will be given to any change in a recipient's or subrecipient's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent with an increase in the ratio of federal awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in federal policy.

(f) Incentive compensation. Incentive compensation to employees based on cost reduction, efficient performance, suggestion awards, or safety awards is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued according to an agreement entered into in good faith between the recipient or subrecipient and the employees before the services were rendered, or according to an established plan followed by the recipient or subrecipient so consistently as to imply, in effect, an agreement to make such payment.

(g) Standards for Documentation of Personnel Expenses.

(1) Charges to federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

(i) Be supported by a system of internal control that provides reasonable assurance that the charges are accurate, allowable, and properly allocated;

(ii) Be incorporated into the official records of the recipient or subrecipient;

(iii) Reasonably reflect the total activity for which the employee is compensated by the recipient or subrecipient, not exceeding 100 percent of compensated activities (for IHEs, this is the IBS);

(iv) Encompass federally-assisted and all other activities compensated by the recipient or subrecipient on an integrated basis but may include the use of subsidiary records as defined in the recipient's or subrecipient's written policy;

(v) Comply with the established accounting policies and procedures of the recipient or subrecipient (See paragraph (i)(1)(ii) of this section for treatment of incidental work for IHEs.); and

(vi) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one federal award; a federal award and non-federal award; an indirect cost activity and a direct cost activity; two or more indirect activities allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

(vii) Budget estimates (meaning, estimates determined before the services are performed) alone do not qualify as support for charges to federal awards, but may be used for interim accounting purposes, provided that:

(A) The system for establishing the estimates produces reasonable approximations of the activity performed;

(B) Significant changes in the related work activity (as defined by the recipient's or subrecipient's written policies) are promptly identified and entered into the records. Short-term (such as one or two months) fluctuations between workload categories do not need to be considered as long as the distribution of salaries and wages is reasonable over the longer term; and

(C) The recipient's or subrecipient's system of internal controls includes processes to perform periodic after-the-fact reviews of interim charges made to a federal award based on budget estimates. All necessary adjustments must be made so that the final amount charged to the federal award is accurate, allowable, and properly allocated.

(viii) Because practices vary as to the activity constituting a full workload (for example, the Institutional Base Salary (IBS) for IHEs), records may reflect categories of activities expressed as a percentage distribution of total activities.

(ix) It is recognized that teaching, research, service, and administration are often inextricably intermingled in an academic setting. Therefore, a precise assessment of factors contributing to costs is not required when IHEs record salaries and wages charged to federal awards.

(2) For records that meet the standards required in paragraph (g)(1) of this section, the recipient or subrecipient is not required to provide additional support or documentation for the work performed other than that referenced in paragraph (g)(3) of this section.

(3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

(4) Salaries and wages of employees used in meeting cost sharing requirements on federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from federal awards.

(5) States, local governments, and Indian Tribes may use substitute processes or systems for allocating salaries and wages to federal awards either in place of or in addition to the records described in paragraph (g)(1) of this section if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, "rolling" time studies, case counts, or other quantifiable measures of work performed.

(i) Substitute systems that use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards, including:

(A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (g)(5)(iii);

(B) The sample must cover the entire period involved; and

(C) The results must be statistically valid and applied to the period being sampled.

(ii) Allocating charges for the sampled employees' supervisors and clerical and support staff, based on the results of the sampled employees, will be acceptable.

(iii) Less than full compliance with the statistical sampling standards noted in paragraph (5)(i) may be accepted by the cognizant agency for indirect costs if it concludes that the amounts allocated to federal awards will be minimal or if it concludes that the system proposed by the

recipient or subrecipient will result in lower costs to federal awards than a system which complies with the standards.

(6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance when these are clearly documented. These plans are acceptable as an alternative to requirements in paragraph (g)(1) of this section when approved by the cognizant agency for indirect costs.

(7) For federal awards of similar purpose activity or instances of approved blended funding, a recipient or subrecipient may submit performance plans that incorporate funds from multiple federal awards and account for their combined use based on performance-oriented metrics, provided the plans are approved in advance by all involved federal agencies. In these instances, the recipient or subrecipient must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.

(8) For a recipient or subrecipient whose records do not meet the standards described in this section, the federal government may require personnel activity reports, including prescribed certifications, or equivalent documentation supporting the records as required in this section.

(h) Nonprofit organizations. This paragraph (h) provides guidance specific to only nonprofit organizations. For compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof, a determination must be made that the compensation is reasonable for the actual personal services rendered rather than a distribution of earnings above actual costs. Compensation may include director's and executive committee member's fees, incentive awards, off-site or incentive pay, location allowances, hardship pay, and cost-of-living differentials.

(i) Institutions of Higher Education (IHEs). This paragraph provides guidance specific to only IHEs.

(1) Determining allowable personnel costs. Certain conditions require special consideration and possible limitations in determining allowable personnel compensation costs under federal awards. Among such conditions are the following:

(i) Allowable activities. Charges to federal awards may include reasonable amounts for activities contributing and directly related to work under an agreement, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, developing and maintaining protocols (human, animals, etcetera), managing substances/chemicals, managing and securing project-specific data, coordinating research subjects, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences.

(ii) Incidental activities. Incidental activities for which supplemental compensation is allowable under the written institutional policy (at a rate not to exceed institutional base salary) do not need to be included in the records described in paragraph (g). To charge payments of incidental activities directly, such activities must either be expressly authorized in the federal award budget or receive prior written approval by the federal agency.

(2) Salary basis. Charges for work performed on federal awards by faculty members during the academic year are allowable at the institutional base salary (IBS) rate. Except as noted in paragraph (i)(1)(ii), in no event will charges to federal awards, irrespective of the basis of computation, exceed the proportionate share of the IBS for that period. This principle applies to all members of the faculty at an institution. IBS is the annual compensation paid by an IHE for an individual's appointment, whether that individual's time is spent on research, instruction, administration, or other activities. IBS excludes any income an individual earns outside of duties performed for the IHE. Unless there is prior approval by the federal agency, charges of a faculty member's salary to a federal award may not exceed the proportionate share of the IBS for the period during which the faculty member worked on the federal award.

(3) Intra-Institution of Higher Education (IHE) consulting. Intra-IHE consulting by faculty should be undertaken as an IHE responsibility requiring no compensation in addition to IBS. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the faculty members is in addition to their regular responsibilities, any charges for such work representing additional compensation above IBS are allowable provided that such consulting arrangements are expressly authorized in the federal award or approved in writing by the federal agency.

(4) Extra service pay. Extra service pay typically represents overload compensation, subject to institutional compensation policies for services above and beyond IBS. Where extra service pay results from Intra-IHE consulting, it is subject to the same requirements of paragraph (b) of this section. It is allowable if all of the following conditions are met:

(i) The IHE establishes consistent written policies which apply uniformly to all faculty members, not just those working on federal awards.

(ii) The IHE establishes a consistent written definition of work covered by IBS, which is specific enough to determine conclusively when work beyond that level has occurred. This definition may be described in appointment letters or other documentation.

(iii) The supplementation amount paid is commensurate with the IBS pay rate and additional work performed. See paragraph (i)(2) of this section.

(iv) The salaries, as supplemented, fall within the salary structure and pay ranges established by and documented in writing or otherwise applicable to the IHE.

(v) The total salaries charged to federal awards, including extra service payments, are subject to the standards of documentation as described in paragraph (g).

(5) Periods outside the academic year.

(i) Except as specified for teaching activity in paragraph (i)(5)(ii) of this section, charges for work performed by faculty members on federal awards during periods not included in the base salary period must be at a rate not more than the IBS.

(ii) Charges for teaching activities performed by faculty members on federal awards during periods not included in IBS period must be based on the written policy of the IHE governing compensation to faculty members for teaching assignments during such periods.

(6) Part-time faculty. Charges for work performed on federal awards by faculty members having only part-time appointments must be determined at a rate not more than that regularly paid for part-time assignments.

(7) Sabbatical leave costs. Rules for sabbatical leave are as follows:

(i) Costs of leaves of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable, provided the IHE has a uniform written policy on sabbatical leave for persons engaged in instruction and persons engaged in research. These costs must be allocated equitably among all related activities of the IHE.

(ii) Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the IHE's actual experience under its sabbatical leave policy.

(8) Salary rates for non-faculty members. Non-faculty full-time professional personnel may also earn "extra service pay" in accordance with the IHE's written policy and paragraph (i)(1)(i).

§ 200.431 Compensation—fringe benefits.

(a) General. Fringe benefits are allowances and services employers provide to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave, employee insurance, pensions, and unemployment benefits. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable provided that the benefits are reasonable and are required by law, an organization-employee agreement, or an established policy of the recipient or subrecipient.

(b) Leave. The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met:

- (1) They are provided under established written leave policies;
 - (2) The costs are equitably allocated to all related activities, including federal awards; and,
 - (3) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the recipient or subrecipient or a specified grouping of employees.
- (i) When a recipient or subrecipient uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment and should be allocated as a general administrative expense to all activities or included in the fringe benefit rate.
- (ii) The accrual basis may be only used for those types of leave for which a liability as defined by GAAP exists when the leave is earned. When a recipient or subrecipient uses the accrual basis of accounting, allowable leave costs are the lesser of the amount accrued or funded.
- (c) Fringe benefits. The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in § 200.447); pension plan costs; and other similar benefits are allowable, provided such benefits are permitted under established written policies. The recipient or subrecipient must allocate fringe benefits to federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such federal awards and other activities, and charged as direct or indirect costs following the recipient's or subrecipient's accounting practices.
- (d) Cost objectives. The recipient or subrecipient may assign fringe benefits to cost objectives by identifying specific benefits to specific individual employees or by allocating them based on entity-wide salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees unless the recipient or subrecipient demonstrates that costs in relationship to salaries and wages do not differ significantly for different groups of employees.
- (e) Insurance. See also § 200.447(d)(1) and (2).
- (1) Provisions for a reserve under a self-insurance program for unemployment compensation or workers' compensation are allowable to the extent that the provisions represent reasonable estimates of the liabilities for such compensation and the types of coverage, the extent of coverage, and rates and premiums would have been allowable had insurance been purchased to cover the risks. However, provisions for self-insured liabilities which do not become payable for more than one year after the provision is made must not exceed the present value of the liability.

(2) Insurance costs on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation. The cost of such insurance is unallowable when the recipient or subrecipient is named as beneficiary.

(3) Actual claims paid to or on behalf of employees or former employees for workers' compensation, unemployment compensation, severance pay, and similar employee benefits (for example, post-retirement health benefits) are allowable in the year of payment provided that the recipient or subrecipient follows a consistent costing policy.

(f) Automobiles. That portion of automobile costs furnished by the recipient or subrecipient that relates to personal use by employees (including transportation to and from work) is unallowable as a fringe benefit or indirect costs regardless of whether the cost is reported as taxable income to the employees.

(g) Pension plan costs. Pension plan costs incurred in accordance with the established written policies of the recipient or subrecipient are allowable, provided that:

(1) Such policies meet the test of reasonableness.

(2) The methods of cost allocation are not discriminatory.

(3) The cost assigned to each fiscal year should be determined in accordance with GAAP, except for State and local governments.

(4) The costs assigned to a given fiscal year are funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 calendar days after each quarter of the year to which such costs are assignable are unallowable. The recipient or subrecipient may follow the "Cost Accounting Standard for Composition and Measurement of Pension Costs" (48 CFR 9904.412).

(5) Premiums for pension plan termination insurance that are paid according to the Employee Retirement Income Security Act (ERISA) of 1974 (29 U.S.C. 1301-1461) are allowable. Late payment charges on such premiums are unallowable. Excise taxes on accumulated funding deficiencies and other penalties imposed under ERISA are unallowable.

(6) Pension plan costs may be computed using a pay-as-you-go method or an actuarial cost method recognized by GAAP and following the recipient's or subrecipient's established written policies.

(i) For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(ii) Pension costs calculated using an actuarial cost method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after six months (or a later period agreed to by the cognizant agency for indirect costs) are allowable in the year funded. The cognizant agency for indirect costs may agree to an extension if an appropriate adjustment is made to compensate for the timing of the charges to the federal government and related federal reimbursement and the recipient's or subrecipient's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the federal government for the time value of federal reimbursements in excess of contributions to the pension fund.

(iii) Amounts funded by the recipient or subrecipient in excess of the actuarially determined amount for a fiscal year may be used as the recipient's or subrecipient's contribution in future periods.

(iv) When a recipient or subrecipient establishes or converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion is allowable if amortized over a period of years in accordance with GAAP.

(v) Payments for unfunded pension costs must be charged in accordance with the allocation principles of this subpart. Specifically, the recipient or subrecipient may not charge unfunded pension costs directly to a federal award if those unfunded pension costs are not allocable to that award.

(vi) The recipient or subrecipient must provide the federal government an equitable share of any previously allowed pension costs (including subsequent earnings) that revert or inure to the recipient or subrecipient through a refund, withdrawal, or other credit.

(h) Post-retirement health. A post-retirement health plan (PRHP) refers to the costs of health insurance or health services not included in a pension plan covered by paragraph (g) for retirees and their spouses, dependents, and survivors. PRHP costs may be computed using a pay-as-you-go method or an actuarial cost method recognized by GAAP and following the recipient's or subrecipient's established written policies.

(1) For PRHP financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(2) PRHP costs calculated using an actuarial cost method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after six months (or a later period agreed to by the cognizant agency for indirect costs) are allowable in the year funded. The cognizant agency for indirect costs may agree to an extension if an appropriate adjustment is made to compensate for the timing of the charges to the federal government and related federal reimbursement and the recipient's or subrecipient's contributions to the PRHP fund. Adjustments may be made by cash refund,

reduction in the current year's PRHP costs, or other equitable procedures to compensate the federal government for the time value of federal reimbursements in excess of contributions to the PRHP fund.

(3) Amounts funded by the recipient or subrecipient in excess of the actuarially determined amount for a fiscal year may be used as the recipient's or subrecipient's contribution in future periods.

(4) If a recipient or subrecipient establishes or converts to an actuarial cost method and funds PRHP costs in accordance with this method, the initial unfunded liability attributable to prior years is allowable if amortized over a period of years in accordance with GAAP, or, if no such GAAP period exists, over a period negotiated with the cognizant agency for indirect costs.

(5) Payments for unfunded PRHP costs must be charged in accordance with the allocation principles of this subpart. Specifically, the recipient or subrecipient may not charge unfunded PRHP costs directly to a federal award if those unfunded PRHP costs are not allocable to that award.

(6) To be allowable in the current year, the PRHP costs must be paid either to:

(i) An insurer or other benefit provider as current year costs or premiums; or

(ii) An insurer or trustee that will maintain a trust fund or reserve for the sole purpose of providing post-retirement benefits to retirees and other beneficiaries.

(7) The recipient or subrecipient must provide the federal government an equitable share of any previously allowed post-retirement benefit costs (including subsequent earnings) that revert or inure to the recipient or subrecipient through a refund, withdrawal, or other credit.

(i) Severance pay.

(1) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by recipients and subrecipients to workers whose employment is being terminated. Severance pay is allowable only to the extent that, in each case, it is required by:

(i) Law;

(ii) Employer-employee agreement;

(iii) Established policy that constitutes, in effect, an implied agreement on the recipient's or subrecipient's part; or

(iv) Circumstances of the particular employment.

(2) Costs of severance payments are divided into two categories as follows:

(i) Actual severance payments for normal turnover must be allocated to all activities; or, where the recipient or subrecipient provides for a reserve for normal severances, such method is acceptable if the charge to current operations is reasonable in light of payments made for normal severances over a representative past period, and if amounts charged are allocated to all activities of the recipient or subrecipient.

(ii) Measuring the costs of abnormal or mass severance pay by means of an accrual method will not achieve equity for both parties. Therefore, accruals are not allowable. However, the federal government recognizes its responsibility to contribute its fair share toward a specific payment. Prior approval by the federal agency or cognizant agency for indirect cost, as appropriate, is required.

(3) Costs incurred in severance pay packages that are in excess of the standard severance pay provided by the recipient or subrecipient to an employee upon termination of employment and that are paid to the employee contingent upon a change in management control over, or ownership of, the recipient's or subrecipient's assets, are unallowable.

(4) Severance payments to foreign nationals employed by the recipient or subrecipient outside the United States, to the extent that the amount exceeds the customary or prevailing practices for the recipient or subrecipient in the United States, are unallowable unless they are required by applicable foreign law or necessary for the performance of federal programs and approved by the federal agency.

(5) Severance payments to foreign nationals employed by the recipient or subrecipient outside the United States due to the termination of the foreign national as a result of the closing of, or curtailment of activities by, the recipient or subrecipient in that country, are unallowable unless they are either:

(i) Required by applicable foreign law; or

(ii) Necessary for the performance of federal programs and approved by the federal agency.

(j) For IHEs only.

(1) Fringe benefits in the form of undergraduate and graduate tuition or tuition remission for individual employees are allowable, provided such benefits are granted in accordance with established written policies of the IHE and are distributed to all IHE activities on an equitable basis. Tuition benefits for family members other than the employee are unallowable.

(2) Fringe benefits in the form of undergraduate and graduate tuition or tuition remission for individual employees not employed by the IHE are limited to the tax-free amount allowed by the Internal Revenue Code as amended (26 U.S.C. 127).

(3) IHEs may offer employees tuition waivers or reductions, provided that the benefit does not discriminate in favor of highly compensated employees. Employees can exercise these benefits at other institutions according to institutional policy. See § 200.466, for treatment of tuition remission provided to students.

(k) Fringe benefit programs and other benefit costs.

(1) For IHEs whose costs are paid by a State or local government, fringe benefit programs (such as pension costs and FICA) and any other benefits costs incurred specifically on behalf of, and in direct benefit to, the IHE, are allowable, subject to the following:

(i) The costs meet the requirements of Basic Considerations in §§ 200.402 through 200.411;

(ii) The costs are properly supported by approved cost allocation plans in accordance with applicable federal cost accounting principles; and

(iii) The costs are not otherwise borne directly or indirectly by the federal government.

(2) The allowability of these costs for the IHE does not depend on whether they are recorded in the accounting records of the IHE.

[89 FR 30136, Apr. 22, 2024, as amended at 89 FR 79732, Oct. 1, 2024]

§ 200.432 Conferences.

A conference means an event whose primary purpose is to disseminate technical information beyond the recipient or subrecipient and is necessary and reasonable for successful performance under the federal award. Allowable conference costs may include the rental of facilities, speakers' fees, attendance fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the federal award. The costs of identifying and providing locally available dependent-care resources for participants are allowable as needed. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary, and managed to minimize costs to the Federal award. The federal agency may authorize exceptions for programs including Indian Tribes, children, and the elderly. See also §§ 200.438, 200.456, and 200.475.

§ 200.433 Contingency provisions.

(a) Contingency provisions are part of a budget estimate of future costs (typically of large construction projects, IT systems, or other items approved by the federal agency) which are associated with possible events or conditions arising from causes for which the precise outcome is indeterminable at the time of estimate and that are likely to result, in the aggregate, in additional costs for the approved activity or project. Contingency amounts for

major project scope changes, unforeseen risks, or extraordinary events must not be included in the budget estimates for a federal award.

(b) It is permissible for contingency amounts other than those excluded in paragraph (a) of this section to be explicitly included in budget estimates to the extent necessary to improve their precision. Contingency amounts must be estimated using broadly-accepted cost estimating methodologies, specified in the budget documentation of the federal award, and accepted by the federal agency. As such, contingency amounts are to be included in the federal award. In order for actual costs incurred to be allowable, they must comply with the cost principles and other requirements of this part (see §§ 200.300 and 200.403), be necessary and reasonable for proper and efficient accomplishment of project or program objectives, and be verifiable from the recipient's or subrecipient's records.

(c) Payments to a recipient's or subrecipient's "contingency reserve" or any similar payment made for events the occurrence of which cannot be foretold with certainty as to the time or intensity, or with an assurance of their happening, are unallowable, except as noted in §§ 200.431 and 200.447.

§ 200.434 Contributions and donations.

(a) Costs of contributions and donations, including cash, property, and services, from the recipient or subrecipient to other entities are unallowable.

(b) The value of services and property donated (that is, in-kind donations) to the recipient or subrecipient may not be charged to the federal award either as a direct or indirect cost. The value of donated services and property may be used to meet cost sharing requirements (see § 200.306). Depreciation on donated assets is permitted so long as the donated property is not counted towards meeting cost sharing requirements (see § 200.436).

(c) Services donated or volunteered to the recipient or subrecipient may be provided by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services may not be charged to the federal award as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing requirements in accordance with the provisions of § 200.306.

(d) To the extent feasible, services donated to the recipient or subrecipient will be supported by the same methods used to support the allocability of regular personnel services.

(e) The following provisions apply to nonprofit organizations. The value of services donated to a nonprofit Heidelberg University and used in the performance of a direct cost activity must be considered in the determination of the recipient's or subrecipient's indirect cost rate(s) and, accordingly, must be allocated a proportionate share of applicable indirect costs when the following circumstances exist:

(1) The aggregate value of the services is material;

(2) The services are supported by a significant amount of the indirect costs incurred by the recipient or subrecipient;

(i) In those instances where there is no basis for determining the fair market value of the services rendered, the recipient or subrecipient and the cognizant agency for indirect costs must negotiate an appropriate allocation of indirect cost to the services.

(ii) Where donated services directly benefit a project supported by the federal award, the indirect costs allocated to the services will be considered as a part of the project's total costs. Such indirect costs may be reimbursed under the federal award or used to meet cost sharing requirements.

(f) Fair market value of donated services must be computed as described in § 200.306.

(g) Personal property and use of space.

(1) Donated personal property and use of space may be furnished to a recipient or subrecipient. The value of the personal property and space may not be charged to the federal award either as a direct or indirect cost.

(2) The value of the donations of personal property and use of space may be used to meet cost sharing requirements described in § 200.300. The recipient or subrecipient must value the donations in accordance with § 200.300. Where the recipient or subrecipient treats donations as indirect costs, indirect cost rates must separate the value of the donations so that reimbursement is not made.

§ 200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.

(a) Definitions for this section —

(1) Conviction means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon verdict or a plea, including a conviction due to a plea of nolo contendere.

(2) Costs include the services that bear a direct relationship to a judicial or administrative proceeding and provided by in-house or private counsel, accountants, consultants, or others engaged to assist the recipient or subrecipient before, during, or after the commencement of that proceeding.

(3) Fraud means:

(i) Acts of fraud or corruption or attempts to defraud the federal government or to corrupt its agents,

(ii) Acts that constitute a cause for debarment or suspension (as specified in agency regulations), and

(iii) Acts that violate the False Claims Act (31 U.S.C. 3729-3732) or the Anti-kickback Act (42 U.S.C. 1320a-7b(b)).

(4) Penalty does not include restitution, reimbursement, or compensatory damages.

(5) Proceeding includes an investigation.

(b) Costs.

(1) Except as otherwise described herein, costs incurred in connection with any criminal, civil, or administrative proceeding (including the filing of a false certification) commenced by the federal government, a State, local government, or foreign government, or joined by the federal government (including a proceeding under the False Claims Act), against the recipient or subrecipient, (or commenced by third parties or a current or former employee of the recipient or subrecipient who submits a whistleblower complaint of reprisal in accordance with 10 U.S.C. 4701 or 41 U.S.C. 4712), are not allowable if the proceeding:

(i) Relates to a violation of, or failure to comply with, a federal, state, local or foreign statute, regulation, or the terms and conditions of the federal award by the recipient or subrecipient (including its agents and employees); and

(ii) Results in any of the following dispositions:

(A) In a criminal proceeding, a conviction.

(B) In a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of recipient or subrecipient liability.

(C) In the case of any civil or administrative proceeding, the disallowance of costs, the imposition of a monetary penalty, or an order issued by the federal agency head or delegate to the recipient or subrecipient to take corrective action under 10 U.S.C. 4701 or 41 U.S.C. 4712.

(D) A final decision by an appropriate federal official to debar or suspend the recipient or subrecipient, to rescind or void a federal award, or to terminate a federal award because of a violation or failure to comply with a statute, regulation, or the terms and conditions of the federal award.

(E) A disposition by consent or compromise if the action could have resulted in any of the dispositions described in paragraphs (b)(1)(ii)(A) through (D) of this section.

(2) If more than one proceeding involves the same alleged misconduct, the costs of all such proceedings are unallowable if any results in one of the dispositions shown in paragraph (b) of this section.

(c) Allowability of costs for proceeding commenced by the federal government. If a proceeding referred to in paragraph (b) of this section is commenced by the federal government and is resolved by consent or compromise pursuant to an agreement by the recipient or subrecipient and the federal government, then the costs incurred may be allowed to the extent expressly authorized in the agreement.

(d) Allowability of costs for proceeding commenced by state, local, or foreign government. If a proceeding referred to in paragraph (b) of this section is commenced by a State, local or foreign government, then the costs incurred may be allowed if the authorized federal official determines that the costs were incurred as a result of:

(1) A specific term or condition of the federal award, or

(2) Specific written direction of an authorized official of the federal agency.

(e) Allowability of costs in general. Costs incurred in connection with proceedings described in paragraph (b), and not made unallowable by that paragraph, may be allowed to the extent that:

(1) The costs are reasonable and necessary for the administration of the federal award and activities required to deal with the proceeding and the underlying cause of action;

(2) Payment of the reasonable, necessary, allocable and otherwise allowable costs incurred is not prohibited by any other provision(s) of the federal award;

(3) The costs are not recovered from the federal government or a third party, either directly as a result of the proceeding or otherwise; and,

(4) An authorized federal official has determined the percentage of costs allowed considering the complexity of litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States, and other factors that may be appropriate. This percentage must not exceed 80 percent unless an agreement under paragraph (c) has explicitly considered this limitation and permitted a higher percentage. In that case, the total amount of costs incurred may be allowable.

(f) Major Fraud Act. Costs incurred by the recipient or subrecipient in connection with the defense of suits brought by its employees or ex-employees under section 2 of the Major Fraud Act of 1988 (18 U.S.C. 1031), including the cost of all relief necessary to make the employee whole, where the recipient or subrecipient was found liable or settled, are unallowable.

(g) Un-allowability of costs for prosecuting claims against federal government. Costs for prosecuting claims against the federal government, including appeals of final federal agency decisions, are unallowable.

(h) Patent infringement litigation. Costs of legal, accounting, and consultant services, and related costs incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the federal award.

(i) Potentially unallowable costs. Costs that may be unallowable under this section, including directly associated costs, must be segregated and accounted for separately. During the pendency of any proceeding covered by paragraphs (b) and (f) of this section, the federal government must generally withhold payment of such costs. However, if in its best interests, the federal government may provide for conditional payment upon provision of adequate security, or other adequate assurance, and agreement to repay all unallowable costs, plus interest, if the costs are subsequently determined to be unallowable.

§ 200.436 Depreciation.

(a) Depreciation is the method for allocating the cost of fixed assets to periods benefiting from asset use. The recipient or subrecipient may be compensated for the use of its buildings, capital improvements, equipment, and software projects capitalized in accordance with GAAP provided that they are needed and used in the recipient's or subrecipient's activities and correctly allocated to federal awards. The compensation must be made by computing the proper depreciation.

(b) The allocation for depreciation must be made in accordance with Appendices III through IX of this part.

(c) Depreciation is computed applying the following rules. The computation of depreciation must be based on the acquisition cost of the assets involved. For an asset donated to the recipient or subrecipient by a third party, its fair market value at the time of the donation must be considered as the acquisition cost. Such assets may be depreciated or claimed as cost sharing but not both. When computing depreciation charges, the acquisition cost will exclude:

(1) The cost of land;

(2) Any portion of the cost of buildings and equipment borne by or donated by the federal government, irrespective of where the title was originally vested or is presently located;

(3) Any portion of the cost of buildings and equipment contributed by or for the recipient or subrecipient that is already claimed as cost sharing or where law or agreement prohibits recovery; and

(4) Any asset acquired solely for the performance of a non-federal award.

(d) When computing depreciation charges, the following must be observed:

(1) The period of useful service or useful life established in each case for usable capital assets must take into consideration such factors as the type of construction, nature of the equipment, technological developments in the particular area, historical data, and the renewal and replacement policies followed for the individual items or classes of assets involved.

(2) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods must reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight-line method must be presumed to be the appropriate method. Once used, depreciation methods may not be changed unless approved in advance by the cognizant agency for indirect costs. The depreciation methods used to calculate the depreciation amounts for indirect cost rate purposes must be the same methods used by the recipient or subrecipient for its financial statements.

(3) The entire building, including the shell and all components, may be treated as a single asset and depreciated over a single useful life. A building may also be divided into multiple components. Each component may be depreciated over its estimated useful life in this case. The building components must be grouped into three general components: building shell (including construction and design costs), building services systems (for example, elevators, HVAC, and plumbing system), and fixed equipment (for example, sterilizers, casework, fume hoods, cold rooms, and glassware/washers). A cognizant agency for indirect costs may authorize a recipient or subrecipient to use more than these three groupings in exceptional cases. When a recipient or subrecipient elects to depreciate its buildings by their components, the same depreciation method must be used for indirect and financial statements purposes, as described in paragraphs (d)(1) and (2).

(4) No depreciation may be allowed on assets that have outlived their depreciable lives.

(5) Where the depreciation method is introduced to replace the use allowance method, depreciation must be computed as if the asset had been depreciated over its entire life (meaning, from the date the asset was acquired and ready for use to the date of disposal or withdrawal from service). The total amount of use allowance and depreciation for an asset (including imputed depreciation applicable to periods before the conversion from the use allowance method and depreciation after the conversion) may not exceed the total acquisition cost of the asset.

(e) Adequate property records must support depreciation charges, and physical inventories must be taken at least once every two years to ensure that the assets exist and are usable, used, and needed. The recipient or subrecipient may use statistical sampling techniques when taking these inventories. In addition, the recipient or subrecipient must maintain adequate depreciation records showing the amount of depreciation.

§ 200.437 Employee health and welfare costs.

(a) Costs incurred in accordance with the recipient's or subrecipient's established written policies for improving working conditions, employer-employee relations, employee health, and employee performance are allowable.

(b) These costs must be equitably apportioned to all activities of the recipient or subrecipient. Income generated from these activities must be credited to the cost thereof unless such income has been irrevocably sent to employee welfare organizations.

(c) Losses resulting from operating food services are allowable only if the recipient's or subrecipient's objective is to operate food services on a break-even basis. Losses sustained because of operating objectives other than the above are allowable only when:

(1) The recipient or subrecipient can demonstrate unusual circumstances; and

(2) Approved by the cognizant agency for indirect costs.

§ 200.438 Entertainment and prizes.

(a) Entertainment costs. Costs of entertainment, including amusement, diversion, and social activities and any associated costs (such as gifts), are unallowable unless they have a specific and direct programmatic purpose and are included in a federal award.

(b) Prizes. Costs of prizes or challenges are allowable if they have a specific and direct programmatic purpose and are included in the federal award. federal agencies should refer to OMB guidance in M-10-11 "Guidance on the Use of Challenges and Prizes to Promote Open Government," issued March 8, 2010, or its successor.

§ 200.439 Equipment and other capital expenditures.

(a) See § 200.1 for the definitions of capital expenditures, equipment, special purpose equipment, general purpose equipment, acquisition cost, and capital assets.

(b) The following rules of allowability must apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and land are allowable as direct costs, but only with the prior written approval of the federal agency or pass-through entity.

(2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$10,000 or more have the prior written approval of the federal agency or pass-through entity.

(3) Capital expenditures for improvements to land, buildings, or equipment that materially increase their value or useful life are allowable as a direct cost, but only with the prior written approval of the federal agency or pass-through entity. See § 200.436 on the allowability of depreciation on buildings, capital improvements, and equipment. See § 200.465 on the allowability of real property and equipment rental costs.

(4) When approved as a direct cost in accordance with paragraphs (b)(1) through (3), capital expenditures must be charged in the period in which the expenditure is incurred or as otherwise determined appropriate and negotiated with the federal agency.

(5) The recipient or subrecipient may claim the unamortized portion of any equipment written off as a result of a change in capitalization levels by continuing to claim the otherwise allowable depreciation on the equipment or by amortizing the amount to be written off over a period of years negotiated with the cognizant agency for indirect cost.

(6) Cost of equipment disposal. If the federal agency instructs the recipient or subrecipient to otherwise dispose of or transfer the equipment, the costs of disposal or transfer are allowable.

(7) Equipment and other capital expenditures are unallowable as indirect costs. See § 200.436.

§ 200.440 Exchange rates.

(a) Cost increases for fluctuations in exchange rates are allowable costs subject to the availability of funding. Prior approval of exchange rate fluctuations is required only when the change results in the need for additional federal funding, or the increased costs result in the need to significantly reduce the scope of the project. Before providing approval, the federal agency must ensure that adequate funds are available to cover currency fluctuations in order to avoid a violation of the Antideficiency Act.

(b) The recipient or subrecipient is required to make reviews of local currency gains to determine the need for additional federal funding before the expiration date of the federal award. Subsequent adjustments for currency increases may be allowable only when the recipient or subrecipient provides the federal agency with adequate source documentation from a commonly used source in effect at the time the expense was made, and to the extent that sufficient federal funds are available.

§ 200.441 Fines, penalties, damages and other settlements.

Costs resulting from recipient or subrecipient violations of, alleged violations of, or failure to comply with, federal, state, local, tribal, or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the federal award, or with the prior written approval of the federal agency. See § 200.435.

§ 200.442 Fundraising and investment management costs.

(a) Costs of organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions, are unallowable. Fundraising costs for meeting the federal program objectives are allowable with the prior written approval of the federal agency.

(b) Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable except when associated with investments covering pension, self-insurance, or other funds, which include federal participation allowed by this part.

(c) Costs related to the physical custody and control of monies and securities are allowable.

(d) Both allowable and unallowable fundraising and investment activities must be allocated an appropriate share of indirect costs in accordance with § 200.413.

§ 200.443 Gains and losses on the disposition of depreciable assets.

(a) The recipient or subrecipient must include gains and losses on the sale, retirement, or other disposition of depreciable property in the year they occur as credits or charges to the asset cost grouping(s) of the property. The amount of the gain or loss is the difference between the amount realized on the property and the undepreciated basis of the property.

(b) Gains and losses from the disposition of depreciable property must not be recognized as a separate credit or charge under the following conditions:

(1) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under §§ 200.436 and 200.439.

(2) The property is given in exchange as part of the purchase price of a similar item, and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

(3) A loss results from failing to maintain proper insurance, except as provided in § 200.447.

(4) Compensation for the use of the property was provided through use allowances instead of depreciation.

(5) Gains and losses arising from extraordinary or bulk sales, retirements, or other dispositions must be considered on a case-by-case basis.

(c) Gains or losses of any nature arising from the sale or exchange of property other than the property covered in paragraph (a) of this section must be excluded in computing federal award costs.

(d) When assets acquired with federal funds, in part or wholly, are disposed of, the distribution of the proceeds must be made in accordance with §§ 200.310 through 200.316.

§ 200.444 General costs of government.

(a) For states, local governments, and Indian Tribes, the general costs of government are unallowable except as provided in § 200.475. Unallowable costs include:

- (1) Salaries and expenses of the Office of the Governor of a State or the chief executive of a local government or the chief executive of an Indian Tribe;
 - (2) Salaries and other expenses of a state legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, or school board, whether incurred for purposes of legislation or executive direction;
 - (3) Costs of the judicial branch of a government;
 - (4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation. However, this does not preclude the allowability of other legal activities of the Attorney General as described in § 200.435; and
 - (5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided as a direct cost under a program statute or regulation.
- (b) Indian Tribes and Councils of Governments (COGs) (see definition for Local government in § 200.1) may include up to 50 percent of salaries and expenses directly attributable to managing and operating federal programs by the chief executive and their staff in the indirect cost calculation without documentation.

§ 200.445 Goods or services for personal use.

- (a) Costs of goods or services for the personal use of the recipient's or subrecipient's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.
- (b) Housing costs (for example, depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses for the recipient's or subrecipient's employees are only allowable as direct costs and must be approved in advance by the federal agency.

§ 200.446 Idle facilities and idle capacity.

(a) Definitions for the purpose of this section:

- (1) Facilities means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the recipient or subrecipient.

(2) Idle facilities mean completely unused facilities that exceed the recipient's or subrecipient's current needs.

(3) Idle capacity means the unused capacity of partially used facilities. It is the difference between:

(i) That which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays; and

(ii) The extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved.

(4) Cost of idle facilities or idle capacity means maintenance, repair, housing, rent, and other related costs (for example, insurance, interest, and depreciation). These costs could include the costs of idle public safety emergency facilities, telecommunications, or information technology system capacity that is built to withstand major fluctuations in load (for example, consolidated data centers).

(b) The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet workload requirements which may fluctuate, and are allocated appropriately to all benefiting programs; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under this exception, costs of idle facilities are allowable for a reasonable period, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities.

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. These costs are allowable, provided that the capacity is reasonably anticipated to be necessary to carry out the purpose of the federal award or was originally reasonable and is not subject to reduction or elimination by use on other federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be considered idle facilities.

§ 200.447 Insurance and indemnification.

(a) Costs of insurance required or approved and maintained by the terms and conditions of the federal award are allowable.

(b) Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(1) The types, extent, and cost of coverage are in accordance with the recipient's or subrecipient's established written policy and sound business practices.

(2) Costs of insurance or contributions to any reserve covering the risk of loss of, or damage to, federal government property are unallowable except to the extent that the federal agency has approved the costs.

(3) Costs allowed for business interruption or other similar insurance must exclude coverage of management fees.

(4) Insurance costs on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only when the insurance represents additional compensation (see § 200.431). This insurance is unallowable when the recipient or subrecipient is identified as the beneficiary.

(5) Insurance costs to correct defects in the recipient's or subrecipient's materials or workmanship are unallowable.

(6) Medical liability (malpractice) insurance is an allowable cost of a federal research program only when the program involves human subjects or training of participants in research techniques. Medical liability insurance costs must be treated as a direct cost and assigned to individual projects based on how the insurer allocates the risk to the population covered by the insurance.

(c) Actual losses which could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable unless expressly authorized in the federal award. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

(d) Contributions to a reserve for a self-insurance program, including workers' compensation, unemployment compensation, and severance pay, are allowable subject to the following requirements:

(1) The type, extent, and cost of coverage and the rates and premiums would have been allowed had insurance (including reinsurance) been purchased to cover the risks. However, a provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, must not exceed the discounted present value of the liability. The rate used for discounting the liability must be determined by considering factors such as the recipient's or subrecipient's settlement rate for those liabilities and its investment rate of return.

(2) Earnings or investment income on reserves must be credited to those reserves.

(3)

(i) Contributions to reserves must be based on sound actuarial principles using historical experience and reasonable assumptions. Reserve levels must be analyzed and updated at least biennially for each major risk being insured and take into account any reinsurance, coinsurance, and other relevant factors or information. Reserve levels related to employee-related coverages must normally be limited to the value of claims:

(A) Submitted and adjudicated but not paid;

(B) Submitted but not adjudicated; and

(C) Incurred but not submitted.

(ii) Reserve exceeding the levels described in paragraph (d)(3)(i) of this section must be identified and justified in the cost allocation plan or indirect cost rate proposal.

(4) Accounting records, actuarial studies, and cost allocations (or billings) must recognize any significant differences due to the types of insured risk and losses generated by the various insured activities or agencies of the recipient or subrecipient. If individual departments or agencies of the recipient or subrecipient experience significantly different levels of claims for a particular risk, those differences must be recognized by using separate allocations or other techniques resulting in an equitable allocation.

(5) Whenever funds are transferred from a self-insurance reserve to other accounts (for example, general fund or unrestricted account), refunds must be made to the federal Government for its share of funds transferred, including earned or imputed interest from the date of transfer and debt interest, if applicable, chargeable in accordance with the claims collection regulations of the cognizant agency for indirect cost.

(e) Insurance refunds must be credited against insurance costs in the year the refund is received.

(f) Indemnification includes securing the recipient or subrecipient against liabilities to third persons and other losses not compensated by insurance or otherwise. The federal government is obligated to indemnify the recipient or subrecipient only to the extent expressly provided for in the federal award, except as provided in paragraph (c).

§ 200.448 Intellectual property.

(a) Patent and copyright costs.

(1) The following costs related to securing patents and copyrights are allowable:

- (i) Costs of preparing disclosures, reports, and other documents required by the federal award and of searching the art to the extent necessary to make such disclosures;
- (ii) Costs of preparing documents and any other patent costs in connection with the filing and prosecution of a United States patent application where the federal government requires that a title or a royalty-free license be conveyed to the federal government; and
- (iii) General counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee intellectual property agreements (See § 200.459).

(2) The following costs related to securing patents and copyrights are unallowable:

- (i) Costs of preparing disclosures, reports, and other documents and of searching the art to make disclosures not required by the federal award;
- (ii) Costs in connection with filing and prosecuting any foreign patent application, or any United States patent application, where the federal award does not require conveying title or a royalty-free license to the federal government.

(b) Royalties and other costs for the use of patents and copyrights.

(1) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necessary for the proper performance of the federal award are allowable unless:

- (i) The federal government already has a license or the right to free use of the patent or copyright.
- (ii) The patent or copyright has been adjudicated to be invalid or administratively determined to be invalid.
- (iii) The patent or copyright is considered to be unenforceable.
- (iv) The patent or copyright is expired.

(2) Special care should be exercised in determining reasonableness when the royalties may have been obtained as a result of less-than-arm's-length bargaining, such as:

- (i) Royalties paid to persons, including corporations, affiliated with the recipient or subrecipient.
- (ii) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a federal award would be made.

(iii) Royalties paid under an agreement entered into after a federal award is made to a recipient or subrecipient.

(3) In any case involving a patent or copyright formerly owned by the recipient or subrecipient, the amount of royalty allowed must not exceed the cost which would have been allowed had the recipient or subrecipient retained ownership.

§ 200.449 Interest.

(a) General. Costs incurred for interest on borrowed capital, temporary use of endowment funds, or the use of the recipient's or subrecipient's own funds are unallowable. Financing costs (including interest) to acquire, construct, or replace capital assets are allowable, subject to the requirements of this section.

(b) Capital assets.

(1) Capital assets are defined in § 200.1. An asset cost includes (as applicable) acquisition costs, construction costs, and other costs capitalized in accordance with GAAP.

(2) For recipient or subrecipient fiscal years beginning on or after January 1, 2016, intangible assets include patents and computer software. For software development projects, only interest attributable to the portion of the project costs capitalized in accordance with GAAP is allowable.

(c) Requirements for all recipients and subrecipients.

(1) The recipient or subrecipient uses the capital assets in support of federal awards;

(2) The allowable asset costs to acquire facilities and equipment are limited to a fair market value available to the recipient or subrecipient from an unrelated (arm's length) third party.

(3) The recipient or subrecipient obtains the financing via an arm's-length transaction (meaning, a transaction with an unrelated third party); or claims reimbursement of actual interest cost at a rate available via such a transaction.

(4) The recipient or subrecipient limits claims for federal reimbursement of interest costs to the least expensive alternative. For example, a lease contract that transfers ownership by the end of the contract may be determined less costly than purchasing through other types of debt financing, in which case reimbursement must be limited to the amount of interest determined if leasing had been used.

(5) The recipient or subrecipient expenses or capitalizes allowable interest cost in accordance with GAAP.

(6) Earnings generated by the investment of borrowed funds pending their disbursement for the asset costs are used to offset the current period's allowable interest cost, whether that cost is expensed or capitalized. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.

(7) The following conditions must apply to debt arrangements over \$1 million to purchase or construct facilities unless the recipient or subrecipient makes an initial equity contribution to the purchase of 25 percent or more. For this purpose, "initial equity contribution" means the amount or value of contributions made by the recipient or subrecipient for the acquisition of facilities prior to occupancy.

(i) The recipient or subrecipient must reduce claims for reimbursement of interest cost by an amount equal to imputed interest earnings on excess cash flow attributable to the portion of the facility used for federal awards.

(ii) The recipient or subrecipient must impute interest on excess cash flow as follows:

(A) Annually, the recipient or subrecipient must prepare a cumulative (from the project's inception) report of monthly cash inflows and outflows, regardless of the funding source. For this purpose, inflows consist of federal reimbursement for depreciation, amortization of capitalized construction interest, and annual interest cost. Outflows consist of initial equity contributions, debt principal payments (less the pro-rata share attributable to the cost of land), and interest payments.

(B) To compute monthly cash inflows and outflows, the recipient or subrecipient must divide the above-mentioned annual amounts by the months in the year (usually 12) that the building is in service.

(C) For any month in which cumulative cash inflows exceed cumulative outflows, interest must be calculated on the excess inflows for that month and be treated as a reduction to allowable interest cost. The interest rate to be used must be the three-month Treasury bill closing rate as of the last business day of that month.

(8) Interest attributable to a fully depreciated asset is unallowable.

(d) Additional requirements for states, local governments and Indian Tribes. For interest costs to be allowable for states, local governments, and Indian Tribes, the recipient or subrecipient must have incurred the interest costs for buildings after October 1, 1980, or after September 1, 1995, for land and equipment.

(1) The requirement to offset the interest earned on borrowed funds against allowable interest cost (paragraph (c)(5) of this section) also applies to earnings on debt service reserve funds.

(2) The recipient or subrecipient must negotiate the amount of allowable interest cost related to the acquisition of facilities with asset costs of \$1 million or more, as described in paragraph

(c)(7) of this section. For this purpose, a recipient or subrecipient must consider only cash inflows and outflows attributable to that portion of the real property used for federal awards.

(e) Additional requirements for IHEs. For interest costs to be allowable, the IHE must have incurred the interest costs after July 1, 1982, in connection with acquisitions of capital assets that occurred after that date.

(f) Additional requirements for nonprofit organizations. For interest costs to be allowable, the nonprofit organization must have incurred the interest costs after September 29, 1995, in connection with acquisitions of capital assets that occurred after that date.

(g) Requirements for nonprofit organizations subject to full coverage under CAS. The interest allowability provisions of this section do not apply to a nonprofit organization subject to “full coverage” under the Cost Accounting Standards (CAS), as defined at 48 CFR 9903.201-2(a). The nonprofit organization’s federal awards are instead subject to CAS 414 (48 CFR 9904.414), “Cost of Money as an Element of the Cost of Facilities Capital,” and CAS 417 (48 CFR 9904.417), “Cost of Money as an Element of the Cost of Capital Assets Under Construction.”

§ 200.450 Lobbying.

(a) Lobbying costs associated with obtaining federal assistance awards. The costs of certain influencing activities associated with obtaining grants, cooperative agreements, contracts, or loans are unallowable. Lobbying with respect to certain grants, cooperative agreements, contracts, and loans is governed by relevant statutes, including the provisions of 31 U.S.C. 1352, as well as the common rule, “New Restrictions on Lobbying,” published on February 26, 1990, including definitions, and the Office of Management and Budget “Government-wide Guidance for New Restrictions on Lobbying” and notices published on December 20, 1989, June 15, 1990, January 15, 1992, and January 19, 1996.

(b) Executive lobbying costs. Costs incurred in attempting to improperly influence, either directly or indirectly, an employee or officer of the executive branch of the federal government to give consideration or to act regarding a federal award or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a federal employee or officer to give consideration or to act regarding a federal award or regulatory matter on any basis other than the merit.

(c) Restrictions on nonprofit organizations and IHEs. In addition, the following restrictions apply to nonprofit organizations and IHEs:

(1) Costs associated with the following activities are unallowable:

(i) Attempts to influence the outcomes of any federal, state, or local election, referendum, initiative, or similar procedure through in-kind or cash contributions, endorsements, publicity, or similar activity;

(ii) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established to influence the outcomes of elections in the United States;

(iii) Any attempt to influence:

(A) The introduction of federal or state legislation;

(B) The enactment or modification of any pending federal or state legislation through communication with any member or employee of the Congress or state legislature (including efforts to influence State or local officials to engage in similar lobbying activity);

(C) The enactment or modification of any pending federal or state legislation by preparing, distributing, or using publicity or propaganda or by urging members of the general public, or any segment thereof, to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign; or

(D) Any government official or employee in connection with a decision to sign or veto enrolled legislation;

(iv) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

(2) The following activities are excepted from the coverage of paragraph (c)(1) of this section:

(i) Technical and factual presentations on topics directly related to the performance of a grant, contract, or other agreement (through hearing testimony, statements, or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof), in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the recipient's or subrecipient's member of congress, legislative body, subdivision, or a cognizant staff member thereof, provided such information is readily obtainable and can be readily put in deliverable form, and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearings;

(ii) Any lobbying made unallowable by paragraph (c)(1)(iii) of this section to influence State legislation to directly reduce the cost, or to avoid material impairment of the recipient's or subrecipient's authority to perform the grant, contract, or other agreement;

(iii) Any activity specifically authorized by statute to be undertaken with funds from the federal award; or

(iv) Any activity excepted from the definitions of “lobbying” or “influencing legislation” by the Internal Revenue Code provisions that require nonprofit organizations to limit their participation in direct and “grass roots” lobbying activities to retain their charitable deduction status and avoid punitive excise taxes, 26 U.S.C. (I.R.C.) 501(c)(3), 501(h), 4911(a), including:

(A) Nonpartisan analysis, study, or research reports;

(B) Examinations and discussions of broad social, economic, and similar problems; and

(C) Information provided upon request by a legislator for technical advice and assistance, as defined by I.R.C. 4911(d)(2) and 26 CFR 56.4911-2(c)(1) through (c)(3).

(3) When a recipient or subrecipient seeks reimbursement for indirect costs, total lobbying costs must be identified separately in the indirect cost rate proposal and thereafter be treated as other unallowable activity costs in accordance with § 200.413.

(4) The recipient or subrecipient must submit a certification that the requirements and standards of this section have been complied with as part of its annual indirect cost rate proposal. (See § 200.415.)

(5)

(i) Time logs, calendars, or similar records are not required to be created for purposes of complying with the record-keeping requirements in § 200.302 with respect to lobbying costs during a particular calendar month when:

(A) The employee engages in lobbying (as defined in paragraphs (c)(1) and (2) of this section) for 25 percent or less of the employee's compensated hours of employment during that calendar month; and

(B) Within the preceding five-year period, the recipient or subrecipient has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs.

(ii) When conditions in paragraph (c)(5)(i)(A) and (B) of this section are met, recipients and subrecipients are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions in paragraphs (c)(5)(i)(A) and (B) of this section are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

(iii) In consultation with OMB, the federal agency must establish procedures for resolving, in advance, any significant questions or disagreements concerning the interpretation or application of this section. Any such advance resolutions must be binding in any subsequent settlements, audits, or investigations with respect to that grant or contract for purposes of

interpretation of this part, provided, however, that this must not be construed to prevent a contractor or recipient or subrecipient from contesting the lawfulness of such a determination.

§ 200.451 Losses on other awards or contracts.

Any excess costs over income under any other award or contract of any nature is unallowable. This includes, but is not limited to, the recipient's or subrecipient's contributed portion by reason of cost sharing agreements or any under-recoveries through negotiation of flat amounts for indirect costs. Also, any excess of costs over authorized funding levels transferred from any award or contract to another is unallowable. All losses are not allowable indirect costs and must be included in the appropriate indirect cost rate base for allocating indirect costs.

§ 200.452 Maintenance and repair costs.

Costs incurred for utilities, insurance, security, necessary maintenance, janitorial services, repair, or upkeep of buildings and equipment (including federal property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements that add to the permanent value of the buildings and equipment or appreciably prolong their intended life must be treated as capital expenditures (see § 200.439). These costs are only allowable to the extent not paid through rental or other agreements.

§ 200.453 Materials and supplies costs, including costs of computing devices.

(a) Costs incurred for materials, supplies, and fabricated parts necessary for the performance of a federal award are allowable.

(b) Purchased materials and supplies must be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms must be charged at their actual net cost under any recognized method of pricing inventory withdrawals, consistently applied. Incoming transportation charges are an allowable part of materials and supplies costs.

(c) Materials and supplies used for the performance of a federal award may be charged as direct costs. Charging computing devices as direct costs is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of a federal award.

(d) Where federally-donated or furnished materials are used in performing the Federal award, the materials will be used without charge.

§ 200.454 Memberships, subscriptions, and professional activity costs.

(a) Costs of the recipient's or subrecipient's membership in business, technical, and professional organizations are allowable.

(b) Costs of the recipient's or subrecipient's subscriptions to business, professional, and technical periodicals are allowable.

(c) Costs of membership in any civic or community organization are allowable.

(d) Costs of membership in any country club or social or dining club or organization are unallowable.

(e) Costs of membership in organizations whose primary purpose is lobbying are unallowable. See § 200.450.

§ 200.455 Organization costs.

(a) Costs such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselors, whether or not employees of the recipient or subrecipient in connection with the establishment or reorganization of an organization, are unallowable except with prior approval of the federal agency.

(b) The costs of any of the following activities are unallowable: activities undertaken to persuade employees of the recipient or subrecipient, or any other entity, to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively through representatives of the employees' own choosing.

(c) The costs related to data and evaluation are allowable. Data costs include (but are not limited to) the expenditures needed to gather, store, track, manage, analyze, disaggregate, secure, share, publish, or otherwise use data to administer or improve the program, such as data systems, personnel, data dashboards, cybersecurity, and related items. Data costs may also include direct or indirect costs associated with building integrated data systems—data systems that link individual-level data from multiple State and local government agencies for purposes of management, research, and evaluation. Evaluation costs include (but are not limited to) evidence reviews, evaluation planning and feasibility assessment, conducting evaluations, sharing evaluation results, and other personnel or materials costs related to the effective building and use of evidence and evaluation for program design, administration, or improvement.

§ 200.456 Participant support costs.

Participant support costs are allowable (see § 200.1). The classification of items as participant support costs must be documented in the recipient's or subrecipient's written policies and procedures and treated consistently across all federal awards.

§ 200.457 Plant and security costs.

Necessary and reasonable expenses incurred for the protection and security of facilities, personnel, and work products are allowable. Such costs include, but are not limited to, wages and uniforms of personnel engaged in security activities; equipment; barriers; protective (non-military) gear, devices, and equipment; contractual security services; and consultants. Capital expenditures for plant security purposes are subject to § 200.439.

§ 200.458 Pre-award costs.

Pre-award costs are those incurred before the start date of the federal award or subaward directly pursuant to the negotiation and in anticipation of the federal award where such costs are necessary for efficient and timely performance of the scope of work. These costs are allowable only to the extent that they would have been allowed if incurred after the start date of the Federal award and only with the written approval of the federal agency. If approved, these costs must be charged to the initial budget period of the federal award unless otherwise specified by the federal agency or pass-through entity.

§ 200.459 Professional service costs.

(a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill and who are not officers or employees of the recipient or subrecipient are allowable, subject to paragraphs (b) and (c) of this section when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the federal government. In addition, legal and related services are limited under § 200.435.

(b) In determining the allowability of costs in a particular case, no single factor or any combination of factors is necessarily determinative. However, the following factors are relevant:

- (1) The nature and scope of the service rendered in relation to the service required.
- (2) The necessity of contracting for the service, considering the recipient's or subrecipient's capability in the particular area.
- (3) The past pattern of such costs, particularly in the years prior to receiving a federal award(s).
- (4) The impact of federal awards on the recipient's or subrecipient's business (meaning, what new problems have arisen).
- (5) Whether the proportion of federal work to the recipient's or subrecipient's total business influences the recipient or subrecipient in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under federal awards.

(6) Whether the service can be performed more economically by direct employment rather than contracting.

(7) The qualifications of the individual or entity providing the service and the customary fees charged, especially on non-federally funded activities.

(8) Adequacy of the contractual agreement for the service (for example, description of the service, estimate of the time required, rate of compensation, and termination provisions).

(c) To be allowable, retainer fees must be supported by evidence of bona fide services available or rendered in addition to the factors in paragraph (b) of this section.

§ 200.460 Proposal costs.

Proposal costs are the costs of preparing bids, proposals, or applications on potential federal and non-federal awards or projects, including developing data necessary to support the recipient's or subrecipient's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated to all current activities of the recipient or subrecipient. No proposal costs of past accounting periods may be allocated to the current period.

§ 200.461 Publication and printing costs.

(a) Publication costs for electronic and print media, including distribution, promotion, and general handling, are allowable. These costs should be allocated as indirect costs to all benefiting activities of the recipient or subrecipient if they are not identifiable with a particular cost objective.

(b) Page charges, article processing charges (APCs), or similar fees such as open access fees for professional journal publications and other peer-reviewed publications resulting from a federal award are allowable where:

(1) The publications report work supported by the federal government; and

(2) The charges are levied impartially on all items published by the journal, whether or not under a federal award.

(3) The recipient or subrecipient may charge the federal award during closeout for the costs of publication or sharing of research results if the costs were not incurred during the period of performance of the federal award. These costs must be charged to the final budget period of the award unless otherwise specified by the federal agency.

§ 200.462 Rearrangement and reconversion costs.

(a) Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable as indirect costs. Special arrangements and alterations are allowable as a direct cost if the costs are incurred specifically for a federal award and with the prior approval of the federal agency or pass-through entity.

(b) Costs incurred in restoring or rehabilitating the recipient's or subrecipient's facilities to approximately the same condition existing immediately before the commencement of a federal award(s), less costs related to normal wear and tear, are allowable.

§ 200.463 Recruiting costs.

(a) Subject to paragraphs (b) and (c) of this section, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of “help wanted” advertising, operating costs of an employment office necessary to secure and maintain adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to the recipient's or subrecipient's standard recruitment program. When the recipient or subrecipient uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(b) Special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel that do not meet the test of reasonableness or do not conform with the established practices of the recipient or subrecipient, are unallowable.

(c) If relocation costs incurred incident to recruitment of a new employee have been funded in whole or in part by a federal award, and the newly hired employee resigns for reasons within the employee's control within 12 months after hire, the recipient or subrecipient must refund or credit the federal government for its share of those relocation costs. See § 200.464.

(d) Short-term visas (as opposed to longer-term immigration visas) are generally an allowable cost and they may be proposed as a direct cost because they are issued for a specific period and purpose and can be clearly identified as directly connected to work performed on a federal award. For these costs to be directly charged to a federal award, they must:

- (1) Be critical and necessary for the conduct of the project;
- (2) Be allowable under the applicable cost principles;
- (3) Be consistent with the recipient's or subrecipient's cost accounting practices and established written policy; and
- (4) Meet the definition of “direct cost” as described in the applicable cost principles.

§ 200.464 Relocation costs of employees.

(a) Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or a stated period of not less than 12 months) of an existing employee or upon recruitment of a new employee. Relocation costs are allowable, subject to the limitations described in paragraphs (b), (c), and (d) of this section, provided that:

- (1) The move is for the benefit of the employer.
- (2) Reimbursement to the employee is in accordance with an established written policy consistently followed by the employer.
- (3) The reimbursement does not exceed the employee's actual (or reasonably estimated) expenses.

(b) Allowable relocation costs for current employees are limited to the following:

- (1) The costs of transportation of the employee, members of their immediate family and their household, and personal effects to the new location.
- (2) The costs of finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period, up to a maximum period of 30 calendar days.
- (3) Closing costs, such as brokerage, legal, and appraisal fees, incidental to the disposition of the employee's former home. These costs, together with those described in paragraph (b)(4) of this section, are limited to eight percent of the sales price of the employee's former home.
- (4) The continuing costs of ownership (for up to six months) of the vacant former home after the settlement or lease date of the employee's new permanent home, such as maintenance of buildings and grounds (exclusive of fixing-up expenses), utilities, taxes, and property insurance.
- (5) Other necessary and reasonable expenses normally incident to relocation, such as canceling an unexpired lease, transportation of personal property, and purchasing insurance against loss of or damages to personal property. The cost of canceling an unexpired lease is limited to three times the monthly rental.

(c) Allowable relocation costs for new employees are limited to those described in paragraphs (b)(1) and (2) of this section. If relocation costs incurred incident to the recruitment of a new employee have been funded in whole or in part by a federal award, and the newly hired employee resigns for reasons within the employee's control within 12 months after hire, the recipient or subrecipient must refund or credit the federal government for its share of the cost. If a new employee is relocating to an overseas location and dependents are not permitted for any reason, and the costs do not include transporting household goods, the costs must be considered travel costs in accordance with § 200.474, not relocation costs under this section.

(d) The following costs related to relocation are unallowable:

- (1) Fees and other costs associated with acquiring a new home.
- (2) A loss on the sale of a former home.
- (3) Continuing mortgage principal and interest payments on a home being sold.
- (4) Income taxes paid by an employee related to reimbursed relocation costs.

§ 200.465 Rental costs of real property and equipment.

(a) Subject to the limitations described in paragraphs (b) through (d) of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as costs of comparable rental properties; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased. Rental arrangements should be reviewed periodically to determine if circumstances have changed and if other options are available.

(b) Rental costs under “sale and lease back” arrangements are allowable only up to the amount that would have been allowed if the recipient or subrecipient had continued to own the property. This amount would include expenses such as depreciation, maintenance, taxes, and insurance.

(c) Rental costs under “less-than-arm's-length” leases are allowable only up to the amount described in paragraph (b) of this section. For this purpose, a less-than-arm's-length lease is one under which one party to the lease agreement can control or substantially influence the actions of the other. Such leases include, but are not limited to, those between:

- (1) Divisions of the recipient or subrecipient;
- (2) The recipient or subrecipient and another entity under common control through common officers, directors, or members; and
- (3) The recipient or subrecipient and a director, trustee, officer, or key employee of the recipient or subrecipient or an immediate family member, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, the recipient or subrecipient may establish a separate corporation to own property and lease it back to the recipient or subrecipient.
- (4) Family members include one party with any of the following relationships to another party:
 - (i) Spouse and parents thereof;
 - (ii) Children and spouses thereof;

- (iii) Parents and spouses thereof;
 - (iv) Siblings and spouses thereof;
 - (v) Grandparents and grandchildren and spouses thereof;
 - (vi) Domestic partner and parents thereof, including domestic partners of any individual in 2 through 5 of this definition; and
 - (vii) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
- (d) Rental costs under leases which are required to be accounted for as a financed purchase under GASB standards or a finance lease under FASB standards are allowable only up to the amount (described in paragraph (b) of this section) that would have been allowed if the recipient or subrecipient had purchased the property on the date the lease agreement was executed. Interest costs related to these leases are allowable if they meet the criteria in § 200.449. Unallowable costs include costs that would not have been incurred if the recipient or subrecipient had purchased the property, such as amounts paid for profit, management fees, and taxes.
- (e) Rental or lease payments are allowable under lease contracts where the recipient or subrecipient is required to recognize an intangible right-to-use lease asset under GASB standards or right-of-use operating lease asset under FASB standards for purposes of financial reporting in accordance with GAAP.
- (f) The rental of any property owned by any individuals or entities affiliated with the recipient or subrecipient, including commercial or residential real estate, for purposes such as the home office is unallowable.

§ 200.466 Scholarships, student aid costs, and tuition remission.

- (a) Costs of scholarships, fellowships, and student aid programs at IHEs are allowable only when the purpose of the federal award is to provide training to participants, and the federal agency approves the cost.
- (b) Tuition remission and other forms of compensation paid as, or instead of, wages to students performing necessary work are allowable provided that:
- (1) The individual is conducting activities necessary to the federal award;
 - (2) Tuition remission and other support are provided in accordance with the established written policy of the IHE and consistently provided in a like manner to students in return for similar activities conducted under federal awards as well as other activities; and

(3) The student is enrolled in an advanced degree program at the IHE or an affiliated institution during the academic period and the student's activities under the federal award are related to their degree program;

(4) The tuition or other payments are reasonable compensation for the work performed and are conditioned explicitly upon the performance of necessary work; and

(5) The IHE compensates students under federal awards as well as other activities in similar manners.

(c) Charges for tuition remission and other forms of compensation paid to students as, or instead of, salaries and wages are subject to the reporting requirements in § 200.430. The charges must be treated as a direct or indirect cost in accordance with the actual work performed. Tuition remission may be charged on an average rate basis. See § 200.431.

§ 200.467 Selling and marketing costs.

Costs of selling and marketing any products or services of the recipient or subrecipient are unallowable unless they are allowed under § 200.421 and are necessary to meet the requirements of the federal award.

§ 200.468 Specialized service facilities.

(a) The costs of services provided by highly complex or specialized facilities operated by the recipient or subrecipient are allowable provided the charges for the services meet the conditions of either paragraph (b) or (c) of this section and take into account any items of income or federal financing that qualify as applicable credits under § 200.406. These costs include charges for facilities such as computing facilities, wind tunnels, and reactors.

(b) The costs of such services, when material, must be charged directly to the applicable federal awards based on actual usage of the services on the basis of a schedule of rates or established methodology that:

(1) Does not discriminate between activities under federal awards and other activities of the recipient or subrecipient, including usage by the recipient or subrecipient for internal purposes; and

(2) Is designed to recover only the aggregate costs of the services. Each service's costs must normally consist of its direct costs and an allocable share of all indirect costs. Rates must be adjusted at least biennially and must consider any over or under-applied costs of the previous period(s).

(c) Where the costs incurred for a service are not material, they may be allocated as indirect costs.

(d) Under extraordinary circumstances, the cognizant agency for indirect costs and the recipient or subrecipient may negotiate and establish an alternative costing arrangement if it is in the federal government's best interest.

§ 200.469 Student activity costs.

Costs incurred for intramural activities, student publications, student clubs, and other student activities are unallowable unless expressly authorized in the federal award.

§ 200.470 Taxes (including Value Added Tax).

(a) For States, local governments, and Indian Tribes.

(1) Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect federal programs or changes in tax policies that disproportionately affect federal programs.

(2) Gasoline taxes, motor vehicle fees, and other taxes that are, in effect, user fees for benefits provided to the federal government are allowable.

(3) This provision does not restrict the authority of the federal agency to identify taxes where federal participation is inappropriate. The cognizant agency for indirect costs may accept a reasonable approximation in circumstances where determining the amount of unallowable taxes would require an excessive amount of effort.

(b) For nonprofit organizations and IHEs.

(1) Taxes that the recipient or subrecipient is required to pay and which are paid or accrued in accordance with GAAP are generally allowable. These costs include payments made to local governments instead of taxes and that are commensurate with the local government services received. The following taxes are unallowable:

(i) Taxes for which exemptions are available to the recipient or subrecipient directly or which are available to the recipient or subrecipient based on an exemption afforded the federal Government and, in the latter case, when the federal agency makes available the necessary exemption certificates;

(ii) Special assessments on land which represent capital improvements; and

(iii) Federal income taxes.

(2) Any refund of taxes and interest thereon, which were allowed as federal award costs, must be credited to the federal government as a cost reduction or cash refund, as appropriate. However, any interest paid or credited to a recipient or subrecipient incident to a refund of tax, interest, and penalty will be paid or credited to the federal government only to the extent that

such interest accrued over the period during which the federal government has reimbursed the recipient or subrecipient for the taxes, interest, and penalties.

(c) Value Added Tax (VAT). Foreign taxes charged for procurement transactions that a recipient or subrecipient is legally required to pay in a country are allowable. Foreign tax refunds or applicable credits under federal awards refer to receipts or reduction of expenditures, which operate to offset or reduce expense items that are allocable to federal awards as direct or indirect costs. To the extent that such credits accrued or received by the recipient or subrecipient relate to allowable cost, these costs must be credited to the federal agency as a cost reduction or cash refunds, as appropriate. In cases where the costs are credited back to the federal award, the recipient or subrecipient may reduce the federal share of costs by the amount of the foreign tax reimbursement, or where federal award has not expired, the federal agency may allow the recipient or subrecipient to use the foreign government tax refund for approved activities under the federal award.

§ 200.471 Telecommunication and video surveillance costs.

(a) Costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances:

(b) Obligor or expending covered telecommunications and video surveillance services or equipment or services as described in § 200.216 to:

- (1) Procure or obtain, extend or renew a contract to procure or obtain;
- (2) Enter into a contract (or extend or renew a contract) to procure; or
- (3) Obtain the equipment, services, or systems.

§ 200.472 Termination and standard closeout costs.

(a) Termination Costs. Termination of a federal award generally gives rise to the incurrence of costs or the need for special treatment of costs, which would not have arisen had the federal award not been terminated. Cost principles covering these items are set forth in this section. They must be used in conjunction with the other termination requirements of this part.

(1) The cost of items reasonably usable on the recipient's or subrecipient's other work is unallowable unless the recipient or subrecipient submits evidence that it would not retain such items without sustaining a loss. In deciding whether such items are reasonably usable on other work of the recipient or subrecipient, the federal agency or pass-through entity should consider the recipient's or subrecipient's plans and orders for current and scheduled activity. Contemporaneous purchases of common items by the recipient or subrecipient must be considered evidence that the items are reasonably usable on the recipient's or subrecipient's other work. Any acceptance of common items as allocable to the terminated portion of the

federal award must be limited to the extent that the quantities of such items on hand, in transit, and on order do not exceed the reasonable quantitative requirements of other work.

(2) If the recipient or subrecipient cannot discontinue certain costs immediately after the effective termination date, despite making all reasonable efforts, then the costs are generally allowable within the limitations of this part. Any costs continuing after termination due to the negligent or willful failure of the recipient or subrecipient to immediately discontinue the costs are unallowable.

(3) Loss of useful value of special tooling, machinery, and equipment is generally allowable if:

(i) Such special tooling, special machinery, or equipment is not reasonably capable of use in the other work of the recipient or subrecipient;

(ii) The interest of the federal government is protected by transfer of title or by other means deemed appropriate by the federal agency (see § 200.313 (d)); and

(iii) The loss of useful value for any one terminated federal award is limited to the portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the federal award bears to the entire terminated federal award and other federal awards for which the special tooling, machinery, or equipment was acquired.

(4) If paragraph (a)(4)(i) and (ii) below are satisfied, rental costs under unexpired leases (less the residual value of such leases) are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated federal award. These rental costs may include the cost of alterations of the leased property and the cost of reasonable restoration required by the lease, provided the alterations were necessary for the performance of the federal award.

(i) The amount of claimed rental costs does not exceed the reasonable use value of the property leased for the period of the federal award and a further period as may be reasonable; and

(ii) The recipient or subrecipient makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of the lease.

(5) The following settlement expenses are generally allowable.

(i) Accounting, legal, clerical, and similar costs that are reasonably necessary for:

(A) The preparation and presentation to the federal agency or pass-through entity of settlement claims and supporting data with respect to the terminated portion of the federal award, unless the termination is for cause (see §§ 200.339-200.343); and

(B) The termination and settlement of subawards.

(ii) Reasonable costs for the storage, transportation, protection, and disposition of property provided by the federal government or acquired or produced for the federal award.

(6) Claims under subawards, including the allocable portion of claims common to the federal award and other work of the recipient or subrecipient, are generally allowable. An appropriate share of the recipient's or subrecipient's indirect costs may be allocated to the amount of settlements with contractors and subrecipients, provided that the amount allocated is consistent with the requirements of § 200.414. These allocated indirect costs must exclude the same and similar costs claimed directly or indirectly as settlement expenses.

(b) Closeout Costs. Administrative costs associated with the closeout activities of a federal award are allowable. The recipient or subrecipient may charge the federal award during the closeout for the necessary administrative costs of that federal award (for example, salaries of personnel preparing final reports, publication and printing costs, costs associated with the disposition of equipment and property, and related indirect costs). These costs may be incurred until the due date of the final report(s). If incurred, these costs must be liquidated prior to the due date of the final report(s) and charged to the final budget period of the award unless otherwise specified by the federal agency.

§ 200.473 Training and education costs.

The cost of training and education provided for employee development is allowable.

§ 200.474 Transportation costs.

Costs incurred for freight, express, cartage, postage, and other transportation services relating to goods purchased, in process, or delivered, are allowable. When the costs can be readily identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. When identification with the materials received cannot be readily made, the inbound transportation cost may be charged to the appropriate indirect cost accounts if the recipient or subrecipient follows a consistent, equitable procedure in this respect. If reimbursable under the terms and conditions of the federal award, outbound freight should be treated as a direct cost.

§ 200.475 Travel costs.

(a) General. Travel costs include the transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the recipient or subrecipient. These costs may be charged on an actual cost basis, on a per diem or mileage basis, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip. The method used must be consistent with those normally allowed in like circumstances in the recipient's or subrecipient's other activities and in accordance with the recipient's or subrecipient's established written policies. Notwithstanding the provisions of § 200.444, travel costs of officials covered by that section are allowable with

the prior written approval of the federal agency or pass-through entity when they are specifically related to the federal award.

(b) Lodging and subsistence. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the recipient or subrecipient in its regular operations as the result of the recipient's or subrecipient's established written policy. In addition, if these costs are charged directly to the federal award documentation must justify that:

(1) Participation of the individual is necessary for the federal award; and

(2) The costs are reasonable and consistent with the recipient's or subrecipient's established written policy.

(c) Dependents.

(1) Temporary dependent care costs (dependent is defined in 26 U.S.C. 152) above and beyond regular dependent care are allowable provided that these costs:

(i) Are a direct result of the individual's travel to a conference for the federal award;

(ii) Are consistent with the recipient's or subrecipient's established written policy for all travel; and

(iii) Are only temporary during the travel period.

(2) Travel costs for dependents are unallowable, except for travel of six months or more with prior approval of the federal agency. See § 200.432.

(d) Establishing rates and amounts. In the absence of an established written policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11 ("Travel and Subsistence Expenses; Mileage Allowances"), by the Administrator of General Services, or by the President (or their designee) pursuant to any provisions of such subchapter must apply to travel under federal awards (48 CFR 31.205-46(a)).

(e) Commercial air travel.

(1) Airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except when such accommodations would:

(i) Require circuitous routing;

(ii) Require travel during unreasonable hours;

(iii) Excessively prolong travel;

(iv) Result in additional costs that would offset the transportation savings; or

(v) Offer accommodations not reasonably adequate for the traveler's medical needs. The recipient or subrecipient must justify and document these conditions on a case-by-case basis for the use of first-class or business-class airfare to be allowable in such cases.

(2) Unless a pattern of avoidance is detected, the federal government will generally not question a recipient's or subrecipient's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the recipient or subrecipient can demonstrate that such airfare was not available in the specific case.

(f) Air travel by other than commercial carrier. Travel costs by recipient or subrecipient-owned, -leased, or -chartered aircraft include the cost of the lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. The portion of these costs that exceeds the cost of airfare, as provided for in paragraph (d), is unallowable.

§ 200.476 Trustees.

Travel and subsistence costs of trustees (or directors) at IHEs and nonprofit organizations are allowable. See § 200.475.

View the electronic version of the Selected Principles of Cost online at

<https://ecfr.federalregister.gov/current/title-2/subtitle-A/chapter-II/part-200#subject-group-ECFRed1f39f9b3d4e72>

▪ APPENDIX N: PRIOR WRITTEN APPROVAL

2 CFR Part 200 Section § 200.407, titled *Prior written approval (prior approval)*, provides additional guidance on items of cost that may require the prior approval of the federal agency to be allowable costs.

The reasonableness and allocability of certain costs under federal awards may be difficult to determine. To avoid subsequent disallowance or dispute based on unreasonableness or non-allocability, the recipient may seek the prior written approval of the federal agency (or, for indirect costs, the cognizant agency for indirect costs) before incurring the cost. The absence of prior written approval on any element of cost will not, in itself, affect the reasonableness or allocability of that cost unless prior approval is specifically required for allowability as described under certain circumstances in the following sections:

- (a) Section 200.306 Cost sharing;
- (b) Section 200.307 Program income;
- (c) Section 200.308 Revision of budget and program plans;
- (d) Section 200.333 Fixed amount subawards;
- (e) Section 200.430 Compensation—personal services, paragraph (h);
- (f) Section 200.431 Compensation—fringe benefits;
- (g) Section 200.439 Equipment and other capital expenditures;
- (h) Section 200.440 Exchange rates;
- (i) Section 200.441 Fines, penalties, damages and other settlements;
- (j) Section 200.442 Fund raising and investment management costs;
- (k) Section 200.445 Goods or services for personal use;
- (l) Section 200.447 Insurance and indemnification;
- (m) Section 200.455 Organization costs;
- (n) Section 200.458 Pre-award costs;
- (o) Section 200.462 Rearrangement and reconversion costs;
- (p) Section 200.475 Travel costs.

There also may be additional approval requirements in the following sections:

- § 200.201 Use of grants, cooperative agreements, fixed amount awards, and contracts, paragraph (b)(6);
- § 200.311 Real property;
- § 200.313 Equipment;
- § 200.413 Direct costs, paragraph (c);
- § 200.438 Entertainment and prizes;
- § 200.454 Memberships, subscriptions, and professional activity costs, paragraph (c);
- § 200.456 Participant support costs;
- § 200.467 Selling and marketing costs;
- § 200.470 Taxes (including Value Added Tax)

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